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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 MARK I. SOKOLOW, et al.,

4 Plaintiffs,

5 v.

04 CV 397 (GBD)

6 PALESTINE LIBERATION
7 ORGANIZATION, et al.,

8 Defendants.

9 New York, N.Y.
10 February 3, 2015
10:00 a.m.

11 Before:

12 HON. GEORGE B. DANIELS,

13 District Judge

14 APPEARANCES

15 ARNOLD & PORTER LLP
16 Attorneys for Plaintiffs

17 BY: KENT A. YALOWITZ
18 PHILIP W. HORTON
TAL MACHNES
SARA PILDIS
CARMELA T. ROMEO
RACHEL WEISER

19 MILLER & CHEVALIER, CHARTERED
20 Attorneys for Defendants

21 BY: MARK J. ROCHON
22 LAURA G. FERGUSON
BRIAN A. HILL
MICHAEL SATIN
DAWN E. MURPHY-JOHNSON

23 Also present: RACHELLE AVITAL, Hebrew interpreter
24 RINA NE'EMAN, Hebrew interpreter
25

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(In open court, jury not present)

THE COURT: I think we have nine jurors. Let's first talk about scheduling for today. What do you anticipate with regard to today's schedule?

MR. YALOWITZ: We have five witnesses on schedule, four of them are here, one of them we're having some trouble locating. The four who are here came from Israel, so you know the farther away you are, the earlier you are. The one who is not here is from Brooklyn. If we can't find him, we'll take him out of order later in the week.

THE COURT: How long do you think it will take to present those five?

MR. YALOWITZ: If we move through it efficiently I think we'll be done by lunch, if not a little after lunch. Then, as I said, our Chicago family is -- were supposed to be here, and I was hoping to do them this afternoon, but because of the flight problems they won't be here until later tonight.

While we're on scheduling, I'm a little concerned about two witnesses that we talked about yesterday, Ashrawi and Issa. Issa I was informed this morning the defendants also plan to bring in now this week so that we would be taking two depositions on Saturday would be the defendant's theory.

As I went back after court and looked at who these witnesses are last night, I was actually very, very concerned about who they are, what their history of public statements is,

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1 and what their actual knowledge is about the events in this
2 case. And I understand why the defendants want to bring
3 Western-educated members of their team to talk to this jury,
4 but it doesn't make any sense to let them bring kind of
5 last-minute substitutions who don't have actually personal
6 knowledge about the issues in the case. And given what I think
7 were the pretty blatant violations of the Court's orders with
8 regard to Mr. Hill questioning Shrenzel, I'm extremely
9 concerned.

10 And also given, you may remember, your Honor, that
11 this fellow Issa gave a radio interview in which he said I plan
12 to come and talk about how bad the government of Israel is to
13 the Palestinian people. And we sent that to the Court, and
14 Mr. Rochon quickly sent a letter saying we're not going to do
15 that. But I don't know what these people are going to do. I
16 don't have any basis to believe they have any actual personal
17 knowledge of any of the issues in this case.

18 And so, I'm number one, extremely concerned, number
19 two, I'm quite concerned about the timing that we're not even
20 going to see them until Saturday and they're supposed to go on
21 the stand on Monday. And how is that going to give your Honor
22 time to consider what their testimony is going to be and make a
23 ruling?

24 So quite frankly, I think that we need to hear with
25 some specificity what it is they're going to say, how it is

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1 they have personal knowledge of the things they're going to
2 say, and if they don't have personal knowledge -- these are
3 fact witnesses. If they don't have personal knowledge, I
4 really don't want to waste the day Saturday screwing around
5 with witnesses who won't be allowed to testify.

6 THE COURT: I read your later with regard to Ashrawi
7 this morning. I don't have obviously the other witness, you
8 haven't submitted anything on that witness yet. My view in the
9 abstract is that I don't see -- the nature of your objection, I
10 don't see it's prompting me to wholesale say this witness has
11 nothing to testify to, so don't put this witness on the plane
12 to bring him here.

13 If they want to bring the witness -- either one of
14 these witnesses, if it turns out 90 percent of what they wanted
15 to put before this jury on this witness is excluded, then they
16 come here for the ten minutes that they get to testify about
17 that their testimony is appropriate and they testify. But I
18 don't see a basis for me to make any determination about
19 wholesale preclusion of either one of these witnesses.

20 Now with regard to the timing, I attempted to set up a
21 process, and it's still a viable process, for the parties to
22 know as early as possible what it is these witnesses are going
23 to come here and testify about and be able to even examine
24 these witnesses previously. If you think that it is more
25 important for you to get an early examination of these

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1 witnesses prior to Saturday or Sunday, then my suggestion to
2 you is you get them on Skype and you find out right away
3 exactly what they're going to say. If you don't think it's
4 worth that, and you want them live and it's more important to
5 have them live, then that's your choice at this point.

6 With regard to those issues, I don't have any other
7 choices. You can depose them tonight if you want, figure out
8 exactly what it is you expect them to say, and then you can
9 make your argument. And if your argument is persuasive then
10 they may tell them don't waste their plane ticket to fly over
11 here. But I can't -- if only want to depose them live and
12 depose them live as early as Sunday, then there's nothing I can
13 do before Monday morning. You have to make the choice.

14 MR. YALOWITZ: I think it's important to have them
15 live. We'll look at them Saturday. I think you understand my
16 concerns. I think you have been very consistent in your
17 rulings that people have to have actual personal knowledge if
18 they're going to be showing up as fact witnesses.

19 THE COURT: And there really shouldn't be a lot of
20 surprise or misunderstanding about the parameters of which I
21 think are relevant and admissible with regard to testimony. I
22 mean we've been through that. We have been through this with
23 numerous witnesses. You're right, this is not -- I'm not
24 letting witnesses come in here and make political statements.
25 I'm not letting witnesses come here and testify to issues, on

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1 either side, that have absolutely nothing to do with
2 determination of this case.

3 I think I pointed out some of those, probably most of
4 those, if not all of those. If for some reason someone is
5 under a misconception under what I am going to allow, we're far
6 enough into the case the decisions are not made -- your
7 decisions should not be made based upon what you want, your
8 decisions should be made based on how you anticipate that I'm
9 going to rule. I don't think there's much mystery about how
10 I'm going to rule on 90 percent of the issues that are going to
11 be raised. I doubt any witnesses that will be here between now
12 and the end of this trial will raise new issues that we haven't
13 already addressed.

14 So consistent -- I got your deposition designations,
15 your significant objections. I have to go through that too.
16 You know what I am looking at, and I gave both sides the
17 opportunity to review that.

18 Now simply because this witness was not a high level
19 PLO official at the time doesn't automatically exclude her as a
20 witness. So I don't know the nature of what she is going to
21 testify to from her own personal knowledge. I don't know what
22 she's going to testify to with regard to PA or PA procedures
23 that exist and, as far as she knows, consistently existed.

24 Obviously, as they say, it would not be a surprise to
25 you -- quoting from your letter, it would not be a surprise to

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1 you or the other side that neither I nor the jury is
2 particularly interested on her view of the establishment of the
3 state of the Israel in May of 1948 means.

4 MR. YALOWITZ: That's not a concern.

5 THE COURT: If anybody thinks that's admissible, they
6 have been in the wrong courtroom.

7 MR. YALOWITZ: My concern is the defendants seem to
8 think they're going to try to slip that past us.

9 THE COURT: I'm sure you will be awake and I will be
10 awake. And look, I'm going to put this -- I will make it
11 clear, which is a rule that shouldn't have to be stated, but I
12 will make it clear to both sides, because I think both sides
13 have stepped over the bounds in that regard.

14 If you know that I'm going to sustain the objection to
15 the question and answer, do not ask the question. Because if
16 you start doing that simply to put it before the jury when you
17 know that I have either ruled it out or it's clear I'm going to
18 rule it out, I will make you sit down and I will send your
19 witness home. I will make that real clear.

20 So I think both sides need to be a little more
21 circumspect about what they throw out to a witness knowing that
22 I'm going to sustain the objection and I think that's an
23 improper question and would elicit an improper answer based on
24 what we have already been through. So this is to forewarn,
25 what I have given to you, so I'm not going to have a whole lot

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1 of discussion on this issue when I get one or two questions
2 from one side to a witness and then it's clear that that is
3 what you're doing, I'm just going to politely tell you to sit
4 down and you are through.

5 So I would suggest that you first go through and be
6 confident that you're going to offer evidence that I am going
7 to consider to be admissible. And if you think there's any
8 doubt about that, you better ask me beforehand before you get
9 to that area on direct or cross-examination so that I can rule
10 previously. Because if you do not, you will take the risk that
11 I will react in that manner and respond in that manner.

12 So I suggest that you concentrate on figuring out the
13 subject matters are and have further discussion with the other
14 side about the subject matter of these witnesses, the witness's
15 testimony on direct. They have a responsibility at this point,
16 given the lateness of the production of these witnesses, to
17 tell you what areas they're going to cover, and to be as
18 specific as possible about those areas so you will anticipate
19 that before you examine these witnesses at the trial and before
20 you even depose these witnesses prior to trial.

21 To the extent that there's some question about the
22 admissibility of the witnesses on any particular subject
23 matter, I suggest that the parties, whoever is aware of that,
24 either the party presenting the witness or its discovery by the
25 party examining the witness at deposition, to bring that to my

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1 attention and I will quickly rule. And as I said, there won't
2 be any secrets about what I'm going to rule and why I'm going
3 to rule. You could disagree, but you pretty much know what my
4 view is on these subject matters and their admissibility
5 through any witness. So that's my view at this point.

6 So to the extent you could identify some areas that
7 you anticipate that they are going to try to elicit from this
8 witness, or they can anticipate some areas that they anticipate
9 they're going to elicit that you will have an objection to and
10 it's likely that I will have concern about those areas, then I
11 suggest that either side raise those as quickly as possible
12 either before or after any deposition takes place.

13 MR. YALOWITZ: In that regard, there is another very
14 serious concern I have, which is they have on their will call
15 list on expert named Michael Sfard, and Sfard's report was
16 focused on the Israeli military courts being in violation of
17 international law and not giving due process and like that.

18 THE COURT: As I said, there's no mystery about
19 whether that's admissible. I think I made --

20 MR. ROCHON: He's almost talking to himself right now.

21 THE COURT: Wait, Mr. Rochon.

22 Mr. Yalowitz, you may have some concern, but I think I
23 made it real clear that's not coming in this case. Is there
24 some misunderstanding about that? I think they made it clear
25 they're not going to.

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1 MR. ROCHON: Judge, may I --

2 THE COURT: Let me give him 30 seconds because I will
3 give him no more after that.

4 MR. YALOWITZ: I think that if they're going to
5 bring -- they have made some noise about bringing Sfar to talk
6 about things, expert opinions that were not in his report. I
7 have a real problem with that, and I'm very concerned about
8 that as well.

9 I have asked them to tell me exactly what they think
10 they're going to have him say. I asked them that more than a
11 day ago. As is the situation, I'm still sitting here wondering
12 and waiting, and we'll get you a letter on that tonight, and
13 maybe they will respond to it in some way and try to explain
14 themselves. But right now I am sitting here with an expert
15 with a report that is totally irrelevant and they have him on
16 their will call list.

17 THE COURT: It's a little late in the case for
18 surprises and secrets, so I suggest the parties be totally
19 forthcoming about what they anticipate the witnesses are going
20 to be and what they anticipate the subject matter of testimony
21 is going to be.

22 If it turns out that it appears to me that that has
23 not been done, then again, my view is that the appropriate
24 action for me to take is to thank that witness, send that
25 witness on their way, if that is what I think is going on, and

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1 we shut this case down and give this case to the jury.

2 So I suggest that the two of you start making
3 judgments about what you think you are going to be able to
4 accomplish rather than what you want. And I think it's real
5 clear at this point what you should think that you can
6 accomplish through these witnesses.

7 Mr. Rochon, do you want to say something briefly? Our
8 twelve jurors are here.

9 MR. ROCHON: Good. We didn't waste any of jurors'
10 time with this conversation. It's our view, with all respect
11 to Mr. Yalowitz, this was a big of a waste of time because I
12 told him I would give him what these people are going to
13 testify about, including the guy Sfar, including the others,
14 including the two people who are going to be deposed on
15 Saturday. I know he will say when, but he will get it far
16 earlier than anything I got.

17 THE COURT: When will you anticipate?

18 MR. ROCHON: Over the next couple of days, tomorrow
19 and Thursday he'll have that. We're not going to start our
20 case until early next week.

21 THE COURT: You think he will have the bulk of that
22 before the end of the week?

23 MR. ROCHON: Yes. And he has depositions on Saturday
24 at 2 o'clock and 3:30, the two people we are having flown early
25 for that at the Court's directive, so we're set. And then I'm

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1 sure there will still be some issues, and I think I will need
2 to raise some issues with you, exactly like you said, I think
3 there might be some testimony that I think you should allow
4 that I have got a sense that you would rather have me discuss
5 it with you in advance, and we'll do that.

6 I also want to make sure we get to the end of the
7 plaintiffs' case before we do unnecessary revelation of the
8 defense case. Mr. Yalowitz made pretty clear he will finish
9 with the plaintiffs this week. If that's the commitment we
10 have, I want to make sure we're on track with that. But I do
11 have his proffers, and I will raise a couple questions with you
12 probably on Thursday or Friday where I think there might be
13 something that you would want to talk to us about.

14 THE COURT: Let's get the jury. When we're finished
15 with the witnesses we should still have more time to discuss
16 the issues this afternoon.

17 (Continued on next page)
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(Jury present)

THE COURT: Good morning, ladies and gentlemen. I know the weather has been a little challenging in terms of coming in. I think we're still ahead of schedule. We're having some logistical issues because some witnesses are coming from out of town and we're trying to juggle and be sure we use our time efficiently.

What I anticipate is that we're going to do many of the witnesses that we have here today, and then we're probably going to adjourn a little early, maybe adjourn by mid-afternoon or even by lunchtime depending on I think we have four or five witnesses who are available today. And then whenever we finish those we'll have to adjourn until tomorrow. But I am still confident that we're on schedule to hopefully finish all the witnesses in the next couple of weeks.

So we'll continue at this point. Mr. Yalowitz, you wish to call the plaintiff's next witness?

MR. YALOWITZ: Thank you, sir. Your Honor, our next witness is Rabbi Leonard Mandelkorn, and Ms. Weiser will be conducting the direct examination.

THE COURT: Sure, Ms. Weiser.

MS. WEISER: Thank you, your Honor.

(Continued on next page)

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L. Mendelkorn

1 LEONARD MENDELKORN,

2 called as a witness by the Plaintiffs,

3 having been duly affirmed, testified as follows:

4 DIRECT EXAMINATION

5 BY MS. WEISER:

6 Q. Good morning.

7 A. Good morning.

8 Q. Rabbi Mandelkorn, where were you born?

9 A. I was born in Lakewood, New Jersey.

10 Q. How long did you live there?

11 A. I lived there seven years.

12 Q. Where did you go after that?

13 A. After my family moved to Cleveland, Ohio, Cleveland
14 Heights.

15 Q. How long did you live in Cleveland Heights?

16 A. Five years.

17 Q. Then what?

18 A. When I was twelve we came to Israel, the whole family.

19 Q. Maybe move in a little bit more or direct the microphone up
20 a little bit. I'm having a little trouble hearing you.

21 Thank you.

22 Rabbi Mandelkorn, are you an American citizen?

23 A. Yes.

24 Q. Did you complete high school in Israel?

25 A. I completed high school in Israel, yes.

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L. Mendelkorn - direct

1 Q. And what did you do after high school?

2 A. After high school I went to rabbinical studies in yeshiva
3 institution called the yeshiva.

4 Q. What is Yeshiva?

5 A. Yeshiva is institution where you learn Jewish studies, and
6 we can also issue a certified rabbinical certificate and
7 teacher's certificate.

8 Q. Did you serve in the Israeli Army?

9 A. As part of the program I served a year and a half in the
10 Israeli Army, yes.

11 Q. What did you do in the Army?

12 A. I was in the beginning in the tank corps and later on I
13 became a chaplain.

14 Q. What do you do now?

15 A. Now I'm also teaching in the yeshiva young men. I'm
16 teaching Jewish studies. I'm a counselor and practicing rabbi.

17 Q. Let's talk about your family, Rabbi Mandelkorn. How long
18 have you been married?

19 A. I've been married since '79. We're celebrating now 36
20 years.

21 Q. What is your wife's name?

22 A. Nurit.

23 Q. How many children do you have?

24 A. We have five, three boys, two girls, one boy, a sixth boy,
25 who died unfortunately at the age of eleven from a heart

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L. Mendelkorn - direct

1 situation. And we have an unofficially adopted daughter.

2 Q. So let's go through briefly. How old is your oldest?

3 A. My oldest is now 33, 32.

4 Q. When does he do?

5 A. He's career officer in the Israeli Army.

6 Q. And the next one?

7 A. A second son is Shaul. He was the one who was hit in the
8 attack. He's now 30 years old.

9 Q. And is he working?

10 A. He is not working, unfortunately.

11 Q. Who comes after Shaul?

12 A. My son Haim. He was the one who passed away when he was
13 eleven from a heart situation.

14 And then I have two daughters, my oldest daughter is
15 Rachel, and she is now working as an architect.

16 Q. And the next one?

17 A. The next one, her name is Bayla, Bilhah in Hebrew, and she
18 is teaching in a girls high school.

19 Q. You said you have an unofficially adopted child. What does
20 she do?

21 A. She's the oldest, actually. She's teaching English in a
22 high school for girls.

23 Q. How many grandchildren to you have?

24 A. We have ten grandchildren, thank God.

25 Q. Briefly --

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L. Mendelkorn - direct

1 A. You didn't mention my youngest son.

2 Q. I'm sorry.

3 A. My youngest son's name is Eleizer Nahum and he finished his
4 high school studies and has started learning in yeshiva.

5 Q. Rabbi Mandelkorn, briefly I want to get back to Haim. You
6 said you had a child who passed away when he was eleven. What
7 was his medical condition?

8 A. My son Haim, my beloved son, was born with an interrupted
9 aorta, artery. When it was discovered after he was born, about
10 a day or two after he was born, he went to a number of
11 surgeries on that, and the final one was in Boston Children's
12 Hospital. His life was saved when he was nine months old, but
13 he had some small complications with the heart, and very
14 suddenly he passed away when he was eleven years old. And it
15 was actually at the celebration of my son Shaul's bar mitzvah,
16 his maturation celebration, on the same day. When the whole
17 family was together he suddenly passed out.

18 Q. He passed away in your home?

19 A. It was in the courtyard of our home.

20 Q. How long before Shaul was in the terror attack did Haim
21 pass away?

22 A. Haim passed away in 1998. It was about four years before
23 the attack.

24 Q. In let's say the year or the months before Shaul's terror
25 attack, had your family been able to get through the grieving

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L. Mendelkorn - direct

1 process over Haim's death?

2 A. We are a very spiritual family. We have a lot of faith.
3 And together we went through a very hard mourning period. It
4 was a lot of grief, but we returned to our routine. All the
5 family returned to a routine and continued our lives naturally
6 and with all our energy.

7 Q. So in the years before Shaul was involved in the terror
8 attack, were you undergoing any kind of psychological or
9 emotional treatment?

10 A. No, definitely no.

11 Q. Were you undergoing any kind of medical issues?

12 A. No, I -- no, I retract that. A year after my son passed
13 away -- a year after my son passed away there was a stressful
14 situation that I had with my contractor who built the house in
15 a way that was not appropriate and caused me a lot of stress.
16 And I developed a heart condition called cardiomyopathy. That
17 means the heart muscle grew bigger under stress, and it came
18 out, and from then I have been under that condition to an
19 extent.

20 Q. So you were in treatment for this heart condition in the
21 years before Shaul was in the terror attack?

22 A. From 1999, about a year later. The attack was 2002, so I
23 was already three years with this condition.

24 Q. Was the heart condition under control at the time of the
25 terror attack?

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L. Mendelkorn - direct

1 A. It was very much under control. It was stable.

2 Q. Rabbi Mandelkorn, let's talk about the day of the terrorist
3 attack. Where were you when you first found out that Shaul may
4 have been one of the people injured?

5 A. I was at the celebration -- actually, beforehand 6 o'clock,
6 6:30 the attack -- we heard on the news the attack. We were in
7 the synagogue praying for all the people who were killed and
8 injured, severely injured people. And at that time I knew that
9 my son was not in Jerusalem, he was on a field trip somewhere
10 else. And I went to a celebration of a neighbor, the neighbor
11 had the celebration that night, life goes on, even when we have
12 a terrorist attacks, life goes on. We had a celebration,
13 maturation, it's called a bar mitzvah, for a neighbor that was
14 in the village's dining hall. I was in the hall, and all the
15 sudden my wife comes in, and in a frenzy says to me: Our
16 neighbor's son is missing. I'm taking care of our neighbor's
17 children until they find out what happened to him. They cannot
18 get him on his cell phone. He was in Jerusalem.

19 Q. So at that point you knew that a neighbor's son was
20 missing?

21 A. Yes.

22 Q. When did you find out that your own son, Shaul, may have
23 been involved in that terror attack?

24 A. As I said, I was sure my son was not there, and I didn't
25 even call him up. I was leaving with my wife out of the dining

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L. Mendelkorn - direct

1 hall to take care of my neighbor's children, and all the sudden
2 a colleague of mine comes up to me when we were just leaving
3 the door and says to me there's a report in the hospital from
4 Jerusalem that a boy gave the name Shaul as accepted in the
5 hospital injured.

6 Q. What was your reaction to that?

7 A. I was just shocked and felt it was impossible. And it was
8 my second son. I already lost a son. How could it be?
9 Another son? I was in terrible shock.

10 Q. What did you do?

11 A. We went right away to home with friends. They took us
12 home. And we called the hospitals all over Jerusalem area to
13 see what is going on. And we reached the Shaare Zedek
14 Hospital, they said yes, a person called Shaul answered the
15 name, he said his name is Shaul, that's the only thing he said
16 when he was accepted. He had been accepted to the hospital.
17 What's his situation, we asked. They said we can't give you
18 any details on the phone.

19 Q. So did you go to the hospital?

20 A. You must come to the hospital.

21 Q. Did you go to the hospital.

22 A. So we went right away in an armored vehicle, protected
23 vehicle, to Jerusalem, bullet protected, and on the way we were
24 just crying and praying because we didn't know if he would be
25 alive, would his limbs be intact, would he be missing a hand, a

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L. Mendelkorn - direct

1 leg, would he be mentally fit. We were in terrible distress
2 when we were riding to Jerusalem. In the middle of the
3 drive -- the drive is about 45 minutes, we're praying and
4 crying all the way.

5 In the middle of the drive I heard something in back
6 of me. I was in the front seat, my wife was in the back seat.
7 I turned around I see my wife crying, terribly crying, my heart
8 just sunk. I was sure that my son had been killed. And I
9 looked at her for a few seconds and said what happened. She
10 said I just got a message on the cell phone that our neighbor's
11 son has been killed. He had been identified by one of our
12 neighbors in the hospital.

13 Q. What happened when you arrived at the hospital?

14 A. We continued, and when we reached Jerusalem we got a call
15 from a neighbor who was in the hospital. He said Shaul is in
16 very severe condition, but all his limbs are intact. It was
17 a little bit reassuring to know that little piece of
18 information after half an hour of tense ride, but we still
19 didn't know what was really going on. We arrived in the Shaare
20 Zedek Hospital. Fifteen minutes later, a doctor came out to us
21 and told us exactly what the situation is.

22 Q. What did he say?

23 A. Shaul is severely injured, he's in surgery, multiple
24 surgeries. His artery, his right arm artery is bleeding. He
25 has a shrapnel, over a third of his body has been hit by

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L. Mendelkorn - direct

1 shrapnel, he's filled with wounds and holes and burns, his
2 lungs have collapsed and he has broken ankle.

3 Q. Did they tell you anything else at that point?

4 A. No. They said his life was in danger but he was going to
5 surgery and he had a chance.

6 Q. How long did you have to wait to see him?

7 A. He was in surgery until the small hours of the night, maybe
8 2 or 3 o'clock, we were there around 10 o'clock, so 2 or
9 3 o'clock in the night they wheeled him out of surgery and took
10 him to the intensive care unit.

11 Q. What did he look like when you first saw him?

12 A. He was completely bandaged. His eye was bandaged. His
13 body was completely bandaged. We couldn't really see too much
14 of him.

15 Q. How did it make you feel to see him like that?

16 A. It was shocking. I continued praying and crying that he
17 would get out of it.

18 Q. What did they have to do during that surgery that took most
19 of the night?

20 A. That surgery they had to -- first thing they do is they
21 opened up his stomach and check that the blast has not caused
22 internal damages which can cause a person to die all the
23 sudden. First they open up and slit up the stomach, they check
24 all the internal organs to see that everything is okay. He has
25 a scar from that to this very day. And they had to close the

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L. Mendelkorn - direct

1 bleeding artery, which was endangering his life. He had
2 shrapnel that caused bleeding in his eye and they bandaged
3 that. And they had to take care of all the infection, all the
4 holes, burns, wounds, different types of grafts of skin.

5 Q. Did he have a penetrating abdominal wound?

6 A. The penetrating abdominal is where they have to slit him.
7 That's what I meant by penetrating wound. They penetrated him
8 in the surgery is what actually was the penetrating wound, but
9 his whole body was full of shrapnel, full of holes, burns, as I
10 said.

11 Q. Did they have to give him blood transfusions?

12 A. They had to give him many blood transfusions.

13 Q. What's your understanding what happened to him that day?

14 A. The story, how it happened, my son, as I said, completely
15 unexpected for me. He was in a different part of the country
16 on a field trip. He was in 12th grade at the end of his year
17 in high school, they're taking a three-day field trip to an
18 area north Israel. And everyone was tense during that
19 situation because there were terrorist warnings, terrorist
20 things that happened all the time.

21 The bus driver was very tense. He took people, left
22 them off in Tel Aviv and left them off in Jerusalem, nowhere
23 else, not where I expected my son to be left off. And it
24 happened -- the terrible thing, the bus driver of the bus
25 reached the bus stop in Jerusalem where the bomb went off. He

F23TSOK1

L. Mendelkorn - direct

1 started to park there where the hitchhikers were, and a friend
2 of my son said: Don't park here, you're blocking the
3 hitchhikers. Move the bus a little bit further up.

4 The driver moved the bus a little further up. My son
5 was the first one to leave the bus. He wanted to get home
6 fast. He got out of the bus with his guitar. This is -- the
7 hitchhikers are here, the bus is here, my son comes out like
8 this, he's running down to here, and boom. This guy comes
9 running into -- this terrorist runs into the hitchhikers that
10 are here, and he blows himself up, and my son is running down
11 here, boom, he receives a blast. He was the only boy on the
12 bus who was wounded because the bus had moved up.

13 Q. Rabbi Mandelkorn, how old was Shaul at that time?

14 A. Shaul was 18.

15 Q. How long did it take your son to wake up after the surgery?

16 A. After the surgery, the surgery was on Wednesday night, he
17 woke up on Friday late morning. We were waiting for him,
18 praying he would wake up. He was unconscious. He had a
19 machine connected to his lungs to have his lungs worked. We
20 weren't clear that he would make it. When he opened up his
21 eyes and spoke, we were, on one hand, very, very happy; on the
22 other hand, we saw that his eye was full of blood.

23 Q. I want to talk about his eye, but I want to first talk to
24 the jury about what was it like for you when he woke up. How
25 long after that did he have to stay in the hospital?

F23TSOK1

L. Mendelkorn - direct

1 A. He had to stay in the hospital approximately 40 days and 40
2 nights.

3 Q. Were you able to work during that time?

4 A. It was very hard for me to work. I have a demanding work
5 as a teacher, Jewish studies, as a counselor, as a practicing
6 rabbi, it's a very demanding job. I had to leave my students
7 in their studies, prepare and leave, and it was very demanding
8 for me on the one hand to do my work and other hand to take
9 care of my child in the hospital. And the whole burden fell on
10 me and my wife, and especially on me, and take of care our
11 other children. We had young children, eleven, eight, nine,
12 five. We had to take care of them all the time.

13 Q. Were you with Shaul regularly in the hospital?

14 A. I was with Shaul almost all the time regularly with some
15 breaks.

16 Q. What were you doing --

17 A. We were involved --

18 Q. Rabbi Mandelkorn, I'm going to interrupt you. It's
19 important that you wait until I finish my question because the
20 court reporter won't be able to get everything down.

21 A. Okay.

22 Q. What were you doing during those 40 days with Shaul in the
23 hospital?

24 A. It was my responsibility for his treatment. We had to be
25 in touch with all the doctors, the doctors for his eyes,

F23TSOK1

L. Mendelkorn - direct

1 doctors for his ears, doctors for his legs, orthopedic doctors,
2 plastic doctors, we are responsible to make the connections
3 with them to make sure he was getting the best treatment, and
4 also to comfort him in his terrible, terrible pain.

5 (Continued on next page)

F238SOK2

L. Mandelkorn - direct

1 BY MS. WEISER:

2 Q. Let's break that down a little bit. You mentioned his
3 ears. What was going on with his ear?

4 A. His ears, the drums were blown out or blown in.

5 Q. What about wounds. You mentioned that the shrapnel had, I
6 think you said covered a third of his body.

7 A. Yes. A third of his body was full of wounds and burns and
8 especially there was a giant hole on his right thigh which
9 reached down to his muscle.

10 Q. Did they stitch that up?

11 A. They tried to stitch that up time after time with skin
12 grafts, and after 40 days and 40 nights and a number of grafts
13 they did not succeed to close it.

14 Q. What about his eyes, what was happening with his eyes
15 during those 40 days in the hospital?

16 A. As I said, when he woke up he had blood in his eyes. We
17 had hoped that he would be a normal person. His limbs were
18 intact. We were hoping that he would get out of it without any
19 damage. But two days later the blood we were waiting to
20 absorb, it absorbed into the left eye and it left a scar on the
21 macular of his left eye and he cannot read and he cannot
22 concentrate with that eye and he can only see general figures
23 with that eye.

24 Q. What about the other eye?

25 A. The other eye was OK. But two weeks later, boom, again, we

F238SOK2

L. Mandelkorn - direct

1 were hit with bad news. They found shrapnel in the good eye,
2 and they told us the shrapnel, if it would start to rust, he
3 could lose completely his eyesight and he could become blind.

4 Q. Did that happen at some point?

5 A. That happened four months later.

6 Q. What did they do?

7 A. Six months later.

8 Six months later, we were in intensive -- every week
9 checking on what is going on. It started rusting five months
10 later and they said they have to make surgery, take out the
11 shrapnel from his good eye. And they said this could damage
12 his eye. The surgery was very, very delicate. It could damage
13 his good eye.

14 Q. How did that make you feel?

15 A. We were terrified. We were desperate. We had to go to
16 look for the best surgeons in the country and out of the
17 country, looking for them to save our son from going blind.

18 Q. Who did that?

19 A. In the end, in Israel they have the best surgeons for the
20 eye because of other experience with situations like this, most
21 experience in Israel. The doctor -- actually, the surgeon was
22 the head of the eye department in Shaare Zedek itself. We
23 wound up being in the right place.

24 Q. Who actually did the legwork, who was the one who figured
25 out who was the best doctor?

F238SOK2

L. Mandelkorn - direct

1 A. We went to a rabbi, a very unusual rabbi in Bnei Brak, a
2 city called Bnei Brak. His name is Rabbi Firer. He has
3 connections with all the doctors and best doctors and surgeons
4 in Israel and all over the world. They will tell you if you
5 have a problem who you should go to.

6 Q. You mentioned that Shaul had a hole in his leg. Did he
7 have holes like that in other parts of his body?

8 A. As I say, a third of his body was holed and burned. He had
9 to have many, many skin grafts.

10 Q. What about from the catheters. Did Shaul develop a problem
11 as a result of the use of catheters in the hospital?

12 A. After a while, they wanted to take him off the catheter.
13 He was stable enough. They took him off the catheter. He
14 couldn't urinate for a day and he was in terrible pain, and we
15 were in terrible pain with him all day. Everybody knows what
16 it is when you cannot urinate, what type of pain you have. But
17 to see your son in such giant pain for the whole day was very,
18 very terrifying.

19 Q. Rabbi Mandelkorn, I want to shift to when Shaul was able to
20 come home.

21 What was happening with him physically at the point
22 that he was able to be at home?

23 A. He came home with something that he could move. He needed
24 like crutches, but he couldn't have crutches because the
25 crutches put pressure on the artery. They had what they call a

F238SOK2

L. Mandelkorn - direct

1 roller like.

2 Q. A walker?

3 A. A walker. A walker. He had a walker, and he needed all
4 the time physiotherapy. He needed also massages. He needed
5 pressure jackets, because where the skin grafts are on him, if
6 the skin grows, it can make scars if it grows too high. He had
7 a whole ritual, a whole routine with massages every day. My
8 wife did it many times. His dressings, his bandages had to be
9 changed every day. My wife and I and the medical staff in the
10 village were completely working day and night with him.

11 Q. Was it painful for him?

12 A. It was very, very painful. All the wounds and bruises.
13 And I say, his eye and the scar in the eye and everything was
14 very, very intense for him.

15 Q. How was it for you?

16 A. For us, again, it was very, very intensive and very, very
17 stressful. We had a number of different things that we had to
18 work with all the time. All the different wounds had to go to
19 this doctor, go to this doctor, this week a checkup, a checkup
20 here, a checkup there. Everything had to be covered.

21 Q. What was the date of the terrorist attack?

22 A. That was June 19, 2002.

23 Q. So he was in the hospital roughly until the end of July?

24 A. July 28, yes.

25 Q. How long was he in this intensive period where even when

F238SOK2

L. Mandelkorn - direct

1 home he needed constant treatment?

2 A. This constant treatment continued for ten months. After
3 ten months, we were looking and looking and looking. We
4 finally found a surgeon who had a special type of surgery and
5 we went to a special hospital and ten months later they did
6 special surgery and they closed that wound ten months later.

7 Q. They were able to successfully?

8 A. They were able to close it up.

9 Q. Do you know how many times they tried before that?

10 A. At least three.

11 Q. Rabbi Mandelkorn, let's talk about the issue with Shaul's
12 eyes. What is the current situation with his eyes? Start with
13 the left eye.

14 A. As I said, the left eye, he cannot read at all. He cannot
15 concentrate at all. He can only see general figures.

16 Q. And the right eye?

17 A. The right eye, he has lost some of his vision but he can
18 use it normally. It was 100 percent, 20/20, but he went down
19 from 20/20 to less, but he doesn't need glasses or anything.

20 So what we call it, an eye and a half. We call it an
21 eye and a half.

22 Q. How about psychologically and emotionally, how was Shaul
23 affected?

24 A. Shaul in those 40 days in the hospital they met the
25 psychologist. We met a social worker. He said he is OK. He

F238SOK2

L. Mandelkorn - direct

1 is not feeling any trauma or anything. But all of the sudden,
2 boom, a year later he was hit by trauma. I say boom because
3 every time we are trying to go back to routine, all of the
4 sudden, boom, something takes us out of our routine. Just
5 explode in our face. We thought our son had gone through this
6 and would be mentally healthy, and this was the most important
7 thing. A person's mental health is most important thing, and
8 then all of the sudden after a year he was hit by terrible
9 trauma and depression.

10 Q. What happened? What was he like?

11 A. What was he like? He started, when he heard suspicious
12 noise, he started with great fears. That's what started it.

13 Then he started imagining things. It was on the high
14 holidays, he was in a village and there was a noise and some
15 neighboring Arab came into the village and stole something from
16 the village, from the Israeli village. After that he heard a
17 noise and he thought that terrorists had entered the village
18 and they were killing people. He was in the bathroom and he
19 heard a noise and he thought the terrorists had entered his
20 house and killed his friends. And he was in great terror in
21 the bathroom for a hour and he was thinking what is going to
22 be, am I going to die, are they going to kill me. He made up
23 with himself that he is willing to die, he is ready to die, but
24 he has to go out and warn the people there is a terrorist
25 attack. Then he heard noise outside the bathroom and he

F238SOK2

L. Mandelkorn - direct

1 started banging, beware. Then all of the sudden he opened the
2 door and he saw his friends sleeping peacefully and understood
3 that it was all in his imagination.

4 Q. What other effect emotionally did the terror attack have on
5 Shaul?

6 A. Shaul is a very sensitive boy, highly spiritual character,
7 high character, very sensitive. He took it very hard on
8 himself, the fact that he was hit by this evil. What did God
9 mean for him? What is it meant for him? He understood that he
10 had done something improper. Maybe there is something that he
11 should elevate himself. And he went to an extreme, which is
12 not -- he decided that he would not go into anyplace where
13 there are women who may not be modestly dressed. Which means
14 he doesn't go into the city, which means he doesn't go on
15 buses, he doesn't go on trains. He is living in a community, a
16 closed community, a religious closed community. His wife has
17 to go to the city. I have to go do errands for him in the
18 city. This is an extreme position, which is not our family way
19 of life as religious people.

20 Q. Does he go on trips with his family?

21 A. We always used to go on trips. Our main recreation is to
22 go hiking, to go to streams, to go to lakes. We did swimming
23 as a family. But from now Shaul cannot come to those places.
24 So when we want to go with the family anywhere, it's hard to
25 find a place.

F238SOK2

L. Mandelkorn - direct

1 One time we went to a place where it's just no pool,
2 no nothing, and there was a very hot wave and everybody went to
3 find places where there was water. There was a small baby.
4 But we were stranded with Shaul and his child. We couldn't go
5 anywhere.

6 Q. Did Shaul at the time have panic attacks?

7 A. Shaul had terrible panic attacks. Many times he felt that
8 he was going to die, that his soul is leaving his body. And
9 the most terrible thing that I saw personally was he was home
10 and all of the sudden he says, I have a heart attack, my heart
11 is beating, I am going to die. And I was completely terrified.
12 My son is having a heart attack, he is going to die.

13 We called an ambulance, emergency ambulance. He was
14 taken to the hospital. The hospital, they checked him up.
15 Nothing, nothing. It's just trauma. And that moment I
16 realized that my son was mentally ill and that was completely
17 the most shocking thing in my life.

18 Q. How did it make you feel?

19 A. As I said, if you can be physically problems, but mental
20 problems, that's the main thing a person is, his mental
21 faculties. If his head is clear, he is a thinking person, that
22 is the most important thing. This was the most terrible thing
23 for us.

24 Q. Rabbi Mandelkorn, take us back to what Shaul was like
25 before the terror attack.

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L. Mandelkorn - direct

1 A. As I say, he was my pride. He was an excellent student.

2 The head of the high school told me, Mr. Mandelkorn, I remember

3 you as a student here. You were excellent. You were

4 something. But your son is ten times more than you were at

5 that time. Your son has a great potential. He was my pride.

6 Q. Rabbi Mandelkorn, I want to talk a little bit more about

7 Shaul but let me back up for a moment.

8 During the time that Shaul was having these terrible
9 panic attacks and the other issues you described, did you call

10 Dr. Peri?

11 A. Yes.

12 Q. What was your purpose in calling Dr. Peri?

13 A. When I saw my son had this imaginary heart attack, I
14 understood he was mentally ill. He went to psychologist who
15 analyzed him as post PTSD, post trauma stress disorder. PTSD,
16 post trauma stress disorder, delayed onset, and he needed
17 psychological help, maybe psychiatric help. So we went to
18 Dr. Tuvia Peri, who was a clinical psychologist, who had been
19 recommended to start taking care of him.

20 Q. Did Shaul see him?

21 A. Shaul did see him, yes.

22 Q. Was it helpful?

23 A. It was very helpful.

24 Q. Let's go back to what Shaul was like. You talked about
25 what a magnificent student he was. Tell us about what he was

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L. Mandelkorn - direct

1 like in terms of his social interactions?

2 A. He was an athlete. He liked to play basketball like all
3 kids at his time. He was a leader of his class. He led them
4 in all -- he had a guitar. He led them in song. He led them
5 in studies. They made a magnificent accomplishment. They
6 covered the whole Jewish code of law. Together they divided it
7 up between themselves. And he was the finishing point. He
8 organized it. He finished it for everybody. He was a very
9 well-rounded person.

10 Q. Did he have any psychological or emotional issues before
11 the terrorist attack?

12 A. No, he did not.

13 Q. Did he have any medical issues before the terrorist attack?

14 A. No, he did not.

15 Q. What is Shaul like today?

16 A. Shaul today is without -- he is withdrawn. He has lost his
17 self-confidence. He has lost his sense of direction. He is
18 hard on himself. He is introverted. He is not as sociable.
19 He is not a leader.

20 Q. How is his confidence?

21 A. He has lost his self-confidence. When you go into a
22 position, you have to feel that you have something unique to
23 give in that position. He has lost years of his studies, lost
24 years of his feeling, the feeling that he has something unique
25 to give to humanity.

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L. Mandelkorn - direct

1 Q. What did Shaul want to be when he grew up before the
2 terrorist attack?

3 A. Before the terrorist attack he was clear that he wanted to
4 be a practicing rabbi and teacher. And two years ago when we
5 were here he said he wants to be a farmer.

6 Q. What is he doing now?

7 A. What?

8 Q. What is he doing now?

9 A. He is studying Jewish studies, and that's good. He is
10 happy with it. But he doesn't have any horizon, any scope, any
11 vision what he is going to do for his career, what kind of job
12 he is going to take in life, what position he is going to take.

13 Q. Rabbi Mandelkorn, in front of you is a summary -- I am
14 going to put it up -- of the injuries that your son Shaul
15 endured from the terrorist attack that you testified about
16 today. Take a moment to look at that and let me know if that's
17 an accurate summary of Shaul's injuries as you have testified
18 about them today.

19 A. Yes.

20 Q. Thank you.

21 Let's talk about you.

22 A. Yes.

23 Q. We have talked, as we were going through the testimony,
24 about Shaul, about how this affected you. Let's talk about
25 even to today and over the course of the time from the

F238SOK2

L. Mandelkorn - direct

1 terrorist attack.

2 How did your son being in a terrorist attack
3 affect -- let's start with your time. How did it affect your
4 time?

5 A. It swallowed up all of my time. The first two years I was
6 completely engrossed in taking care of my child, his physical
7 wounds and his mental wounds.

8 Q. You mentioned that it affected your family in terms of the
9 inability to do trips and things that you enjoyed doing. Are
10 there things that you have to do for him that he can't do?

11 A. He can't go into the city. So if there are things that
12 have to be done in the city, either his wife or I have to do
13 things for him.

14 Q. You mentioned that he is withdrawn and lacks confidence.
15 How does that affect you?

16 A. That is the most heartbreaking thing for me. I am
17 heartbroken because my son, I take pride in him that he has a
18 family and that he has, but my pride is that he would be able
19 to realize his capabilities in a position, in a job, in
20 leadership, and there is nothing left of it. He has been
21 wounded by terror, by this evil.

22 Q. What does that do to your stress level?

23 A. That is complete sadness. Low mood. The whole thing has
24 affected my heart situation.

25 Q. How is that?

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L. Mandelkorn - direct

1 A. After two years of intensive work with my son, for the
2 first time I went to the doctor because I had short
3 breathiness. I didn't have it till then.

4 Q. Rabbi Mandelkorn, we have a summary also of the injuries
5 that you have suffered as a result of your son having been in a
6 terror attack. Please take a look at that list and let me know
7 if it's an accurate summary of your injuries as you have
8 testified about them today.

9 A. Yes.

10 Q. You mentioned actually earlier in your testimony, you
11 mentioned it was hard for you to concentrate at work while
12 Shaul was in the hospital.

13 Does that issue continue to today?

14 A. That issue is a long-time issue. It affects the stress and
15 anxiety of taking care of him, the economic burden. He has no
16 job. He has no house. He cannot afford a mortgage like any
17 normal person can to buy a house. This is all on my shoulders
18 and I don't have solutions.

19 Q. Rabbi Mandelkorn, you have other stressors in your life.
20 You take care of parents, right? Who do you have living with
21 you?

22 A. My father is with me and my in-law, my mother-in-law is
23 also with me.

24 Q. You and your wife care for them?

25 A. Yes.

F238SOK2

L. Mandelkorn - direct

1 Q. How does the stress that you live through with Shaul differ
2 from the stress that you have in caring for your parents and
3 in-laws?

4 A. The stress of Shaul is something out of -- so out of this
5 world, so unbelievable, the fact that the evil, how the
6 terrorists succeeded in ruining our lives. It makes us sad.
7 It makes us humiliated. It makes us tense because those powers
8 of terror are still around and they are lurking the streets of
9 Jerusalem all the time. So we are tense.

10 When a person goes out to the city, he doesn't think
11 about the possibility that he may have a car accident.
12 Everybody knows there is a possibility but nobody thinks about
13 it. When a person goes out into the streets of Jerusalem,
14 there is lurking terror. There is tenseness.

15 When a person has gone personally through a terror
16 attack and his life has been ruined, when he walks in the
17 streets of Jerusalem, this is our city where we do our
18 business, it's very hard.

19 MS. WEISER: One moment, please.

20 Your Honor, we would like to offer Exhibit 1267 --
21 those are the summaries that the witness has identified -- into
22 evidence.

23 THE COURT: Any objection?

24 MR. ROCHON: No, sir.

25 THE COURT: It will be admitted in evidence.

F238SOK2

L. Mandelkorn - direct

1 (Plaintiffs' Exhibit 1267 received in evidence)

2 MS. WEISER: Thank you, Rabbi Mandelkorn. I don't
3 have any further questions.

4 THE COURT: Any cross-examination?

5 MR. ROCHON: No, sir.

6 THE COURT: Thank you, sir. You can step down.

7 (Witness excused)

8 THE COURT: Would the plaintiff call its next witness.

9 MS. WEISER: Your Honor, plaintiffs call Nurit
10 Mandelkorn.

11 NURIT MANDELKORN,

12 called as a witness by the plaintiffs,
13 having been duly sworn, testified through Hebrew
14 interpreter as follows:

15 DIRECT EXAMINATION

16 BY MS. WEISER:

17 Q. Good morning, Nurit.

18 A. Good morning.

19 Q. Where were you born?

20 A. I was born in Israel, in the area of Haifa.

21 Q. Do you work outside the home?

22 A. Yes, I do.

23 Q. Did you live in Israel your whole life?

24 A. Yes.

25 Q. What do you do for a living?

F238SOK2

N. Mandelkorn - direct

1 A. I teach in a school, in a college in Jerusalem.

2 Q. What do you teach?

3 A. I teach Jewish studies.

4 Q. Do you speak any English?

5 A. A little bit.

6 Q. What language are you more comfortable in, Hebrew or
7 English?

8 A. In Hebrew.

9 Q. Nurit, I want to talk to you about the terrorist attack
10 that your son was in and the effect that had on your husband.

11 A. OK.

12 Q. Were you with Rabbi Mandelkorn when you first found out
13 that your son might have been one of the people involved in the
14 terrorist bombing?

15 A. We were together, yes. I had just come from home. There
16 was a party in our village and there had already been rumors
17 going around the village that there had been some kind of
18 terrorist attack and that something had happened to somebody
19 from the village. But they were talking about somebody else.

20 Q. What made you think that, or when did you find out that
21 your son, Shaul, may have been one of those who were injured?

22 A. I had come to the party actually in order to tell my
23 husband that somebody else from the village apparently had, but
24 I had just walked in and I called my husband over and then a
25 neighbor walked over to us and he told us that there was some

F238SOK2

N. Mandelkorn - direct

1 news that some guy named Shaul had been injured in the attack.
2 They didn't know what Shaul they were talking about.

3 Prior to that there were all kinds of phone calls to
4 our house, where's Shaul? But we knew that he was on a trip.
5 So we didn't think that anything had really happened to him.

6 Q. What changed your mind, what made you believe that really
7 something had happened to him?

8 A. The fact that they contacted us in particular caused us to
9 think that perhaps something had happened, God forbid, but we
10 were not certain.

11 Q. So what did you do?

12 A. We went back home and we started to call up the hospitals
13 and they told us at some hospital, a hospital called Shaare
14 Zedek, that there was a fellow there named Shaul, but they did
15 not give us any further information. And they said that we had
16 to come to the hospital to see for ourselves.

17 Q. What was Rabbi Mandelkorn's mental state at that time when
18 you were calling the hospitals?

19 A. My husband in situations like that, he is always one to
20 rise to the occasion. So he made the phone calls.

21 Q. And what did you do next?

22 A. In the meantime somebody, I think it was one of our
23 neighbors, they called for an armored vehicle and we
24 immediately left to go to the hospital.

25 Q. What happened inside the car on the way to the hospital?

F238SOK2

N. Mandelkorn - direct

1 A. We were very worried because why, why wouldn't they say his
2 last name if it's really our Shaul? Why couldn't they say his
3 name? So we thought the very worst. Does he still have his
4 arms? Does he still have his legs? Doesn't he have his arms
5 or his legs? It was very hard.

6 Q. How does Rabbi Mandelkorn relate to you when you're upset?

7 A. He always takes care of things. He takes care of everybody
8 and everything that has to be done.

9 Q. Your husband, Nurit, already told us in great detail about
10 Shaul's injuries. But tell us about what was going on with
11 Aryeh during that time.

12 When you first got to the hospital, what was his
13 reaction?

14 A. We came to the hospital and when we were still en route, we
15 were told that his body was intact but that he was very gravely
16 wounded. They had also already identified him, and when we
17 arrived at the hospital he was already in the middle of
18 surgery.

19 Q. What were you and Rabbi Mandelkorn doing during the time
20 that Shaul was in surgery?

21 A. We prayed. We prayed that he would manage to come out of
22 it OK.

23 Q. Was Rabbi Mandelkorn crying?

24 A. He cried quietly, very quietly.

25 Q. What was he like in the hospital taking care of Shaul?

F238SOK2

N. Mandelkorn - direct

1 A. I already said that Aryeh takes responsibility for
2 everything. So he took care of all of the shifts and who would
3 be home while we were weren't able to be home and to consult
4 with the doctors, who were the best doctors, which doctors it
5 would be a good idea to work with, and to encourage me and to
6 encourage Shaul. I had moments when I was sobbing.

7 Q. Nurit, I think you have mentioned you have referred to
8 Rabbi Mandelkorn as Aryeh. Is Aryeh his Hebrew name?

9 A. Yes.

10 Q. What is his English name?

11 A. Leonard.

12 Q. I just want to make sure we all know we are talking about
13 the right person.

14 What about after Shaul came home, what was Aryeh like
15 when Shaul was home?

16 A. Shaul came home, but he wasn't OK at all. We had to run
17 with him to doctors and to bandage him and physiotherapy, and
18 there was still shrapnel in his eye and his leg was still not
19 OK. There was a place where the graft had not yet taken on.
20 So there was still a great, a very great deal more to do.
21 Aryeh was the one who would call up the doctors and he would
22 drive him to his doctors' appointments. And everything that
23 had to be taken care of, Aryeh was the one who took care of it.
24 I did things like bandaging him.

25 Q. Was Aryeh with you when you bandaged Shaul?

F238SOK2

N. Mandelkorn - direct

1 A. Sometimes yes and sometimes no.

2 Q. Was Aryeh with Shaul when he went to his therapy?

3 A. He was the one who would drive him to the appointments. He
4 went in with him as well. I did that too.

5 Q. Did Shaul have any psychological or emotional issues after
6 the terror attack?

7 A. Not immediately. At first it looked like everything was OK
8 from a psychological point of view. In effect, we only found
9 out about it about two years later. When he told us about it,
10 it was a year later, a year after that. For him it had already
11 been a year that he was coping with these difficulties.

12 Q. Does Rabbi Mandelkorn have anybody else in his family with
13 mental health issues?

14 A. Yes, both his sister and his father.

15 Q. What conditions do they have?

16 A. Also they have mental health issues as well.

17 Q. From trauma or from other things?

18 A. No, not trauma.

19 Q. How did it affect Rabbi Mandelkorn to see his son suffering
20 from mental health issues having had other members of his
21 family have mental health issues?

22 A. He knows what that is like. It really, really frightened
23 him. It would frighten anyone I think. But for a person who
24 knows what that is like, it's much more frightening.

25 Q. Did it affect Rabbi Mandelkorn physically?

F238SOK2

N. Mandelkorn - direct

1 A. Yes. Not immediately. Generally speaking, it happened
2 when he was contending with all kinds of tasks that he had to
3 accomplish. So he rises to the occasion with full force and
4 with all of his energy, but later on, when it calms down a
5 little bit, then he pays the price.

6 Q. What do you mean by that?

7 A. That after we started to take care of things and treat him
8 and it seemed that Shaul was OK more or less, then Aryeh felt
9 very poorly. He would wake up at night. He wouldn't be able
10 to breathe. He had all kinds of pain. And he has a cardiac
11 issue and that would manifest with pain and shortness of
12 breath.

13 Q. Does Shaul continue to have physical and emotional issues
14 as a result of the terror attack?

15 A. Unfortunately, yes, he does. First of all, his eye. He
16 only has one eye. There are sutures in the other eye, and he
17 sees them from the inside of his eye when he looks out. And he
18 always has to find the right angle how to read. His whole body
19 is like patchwork, and he still has apparently shrapnel in his
20 lungs, which has not been removed.

21 Q. What about emotionally? I'm sorry.

22 A. That's physically speaking.

23 And emotionally speaking, he does not like to be in
24 public places and he does not want to look at women, and
25 therefore it's a problem, for example, when we go on family

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N. Mandelkorn - direct

1 trips. It's a problem for his family too. His wife has to do
2 all kinds of things for him. She is the one who has to go
3 shopping and car travel. It's always a problem, the route to
4 plan.

5 Q. What was Shaul like before the terrorist attack?

6 A. Oh, he was a happy guy, and he was smart. He was a leader.
7 He had a lot of self-confidence. And afterwards, now he is
8 very much lacking self-confidence. He doesn't really know what
9 he wants to do with himself.

10 Q. Does your husband Rabbi Mandelkorn continue to help Shaul
11 on a daily basis with these issues that you have described?

12 A. Both of us do.

13 Q. Does it weigh on him, does it worry him?

14 A. Of course it does. Everybody wants to see their children
15 independent.

16 Q. Nurit, in the recent past, did you see or did you have a
17 chance to see the full extent of the lasting injuries
18 physically to Shaul?

19 A. Yes, I did, and it was very difficult.

20 Q. When was that?

21 A. It was two years ago when we came here for the deposition.
22 That was the first time that I saw the whole range of his
23 injuries.

24 Q. What did you see?

25 A. He had a physical examination and he had only shorts on.

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N. Mandelkorn - direct

1 It was so hard. It was the first time I saw him, all of him.
2 Even in the hospital I didn't see his whole body. He is simply
3 all patchwork, like a quilt. It was a terrible thing to see.

4 Q. Take your time, Nurit. Do you need another tissue?

5 Can you describe for the jury what Shaul's chest and
6 arms look like today?

7 A. First of all, he has, what should I call it, he has a scar
8 all the way down. But apart from that, on every side, in every
9 direction, he has patchwork and scars. He has big pieces of
10 patchwork on his arms and, again, lots and lots and lots of
11 scars. He doesn't have a single square centimeter of his body
12 that is not scared. On his leg also he has like a pit on one
13 leg, and more scars and more pieces of patchwork, and more.

14 Q. Was Aryeh with you when you saw Shaul that day?

15 A. Yes.

16 Q. What was his reaction?

17 A. For him too it was terrible.

18 Q. Why was it so terrible?

19 A. I think that for me it was terrible because you give birth
20 to a child and he is whole and all of the sudden you see him,
21 he is not whole anymore. And for him it's awful. Every day he
22 looks at himself in the mirror and I think that it's a terrible
23 thing to see. He can never forget what happened to him.

24 MS. WEISER: Thank you, Nurit.

25 I have no further questions, your Honor.

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N. Mandelkorn - direct

1 THE COURT: Any questions?

2 MR. ROCHON: No, sir.

3 THE COURT: Thank you ma'am. You can step down.

4 (Witness excused)

5 THE COURT: Let's take a short break.

6 Ladies and gentlemen, we will take a ten-minute break.

7 Don't discuss the case, keep an open mind, and I will
8 see you in ten minutes.

9 (Jury exits courtroom)

10 THE COURT: Let's take ten minutes.

11 (Recess)

12 (Continued on next page)

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(Jury not present)

THE COURT: Mr. Yalowitz, do you think we'll be finished in an hour or should we come back after lunch?

MR. YALOWITZ: We think a half hour, 45 minutes, I think we have got half an hour, 45 minutes with the next witness, and we got two after that.

THE COURT: Okay.

MR. YALOWITZ: So I think if we come back at 2, I think we'll be done at 3.

THE COURT: Okay.

MR. YALOWITZ: 3:30. I seem to think we're going to go faster than we're -- I'm always a little like a half hour late.

MR. ROCHON: It's the cross-examinations.

THE COURT: I just don't want to mislead the jury. Let's get them in and we'll do that in the next 45 minutes and take lunch.

MR. YALOWITZ: Thank you.

(Continued on next page)

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H. Waldman - direct

(Jury present)

MR. YALOWITZ: Your Honor, one thing I meant to do this morning and I overlooked it, may I have the Court's permission hand the jurors the summary cards?

THE COURT: Yes.

MR. YALOWITZ: Thank you.

Your Honor, plaintiffs' next witness is Henna Waldman, and Ms. Pildis will do the direct examination.

THE COURT: Okay.

HENNA NOVACK WALDMAN,

called as a witness by the Plaintiffs,

having been duly affirmed, testified as follows:

DIRECT EXAMINATION

BY MS. PILDIS:

Q. Good morning, Henna, where are you from?

A. Israel.

Q. And where do you live now?

A. Lakewood, New Jersey.

Q. Did you grow up in Israel?

A. In Israel.

Q. Are you a U.S. citizen?

A. Yes.

Q. Do you have any children?

A. Yes.

Q. What are their ages?

F23TSOK3

H. Waldman - direct

1 A. Twelve, ten, eight, six and four.

2 Q. When did you meet your husband?

3 A. 2000.

4 Q. What did you think of him when you first met him?

5 A. He was amazing. Very caring, loving, happy, funny. He's a
6 good person to be next to.

7 Q. Where did you live when you first got married?

8 A. In Israel.

9 Q. What was your life like as newlyweds?

10 A. It was great. It was newlyweds. We went on the bus every
11 day together, we spent time. Nights I had a job, he went to
12 study, and basically we had to be together, and we enjoyed each
13 other's company.

14 Q. What was he studying?

15 A. He was -- for a few months he was studying the Bible.

16 Q. After that did he get a job?

17 A. He got a job, yes.

18 Q. What was he doing?

19 A. He was a store manager.

20 Q. How was the job going for him?

21 A. It was going good. He was actually going to be promoted.
22 He was very efficient, he spent a lot of hours, and he worked
23 hard.

24 Q. Was that a happy time in your life?

25 A. Yes.

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H. Waldman - direct

1 Q. I would like to take you to January 22nd, 2002, the day
2 that your husband was shot. Can you, starting in the morning,
3 describe that day for me?

4 A. Yes. It was supposed to be a very special day for us as a
5 couple. I had planned it a few days before. It should have
6 been a very romantic night. I was going to go to work and come
7 back early that day. I finished work at five, and that day I
8 finished at one to prepare myself before he came home that day
9 later.

10 Q. Was that going to be a special day?

11 A. That day was my Mikvah night.

12 Q. Can you explain what the Mikvah is?

13 A. It's basically -- the word Mikvah is a ritual bath which
14 you go, and every Jewish Orthodox lady has to do it, about a
15 week and a half after she gets her period. Basically our
16 marriage is set up in a way that we give -- the month is
17 separated, emotional needs to the spouse, we give all the good
18 words and encourage each other when I'm forbidden to touch my
19 husband for about two weeks, the week of my period and then a
20 week later. And after those two weeks I go and I go to that
21 bath, which is located in many places. After that we could
22 physically be together. So that night is a night that we look
23 forward to. It's a very special night for any Orthodox Jewish
24 lady, should be.

25 Q. What special things were you doing to prepare your home for

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H. Waldman - direct

1 that night?

2 A. Well, obviously the house was spotless. I cleaned and
3 tried to have it really nice and clean. I chose my clothing to
4 be more attractive, romantic, definitely candles, and the food
5 that I prepared that day when I came home early was bought the
6 day before and prepared to the best that I could do. I learned
7 to be a chef, so that was like one of my nights that I would
8 put all my effort in the wines and the meat.

9 Q. Were you doing special things to prepare yourself?

10 A. Yes, I took a bath after I cleaned the house and prepared
11 all the food, the table was set, and basically everything was
12 done. All I had to do was get into the bath, go dip, and my
13 husband would come home.

14 Q. What happened when you were getting ready?

15 A. That was when I got the phone call from my husband Shmuel,
16 and he had told me he got shot, two bullets in his leg.

17 Q. What did you do?

18 A. I came out of the bath, I put on the clothing that I saw
19 first, and I ran out of my house with nothing but the few
20 dollars or shekels. I tried to find a taxi, but there was
21 nothing there. So I just happened to see a taxi that fills up
22 with ten people, and I go and I basically asked the driver how
23 many people are missing for the taxi, and he said eight, and
24 said well my husband is shot, I will pay the eight people, and
25 just go fast.

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H. Waldman - direct

1 Q. At that point what did you know about Shmuel's condition?

2 A. He had told me that he got two bullets and he does not know
3 if he could make it. He told me the hospital where I should be
4 going, but it changed, and I was being updated in the taxi from
5 the news that was heard from the driver, and they told me
6 that -- I heard on the news that an American boy is being
7 transferred to a different hospital for better care.

8 Q. How long did it take you to get to the hospital?

9 A. It was about an hour and a half. It felt like a month,
10 maybe more.

11 Q. What did you find when you got to the hospital?

12 A. My husband was sitting on the bed waiting to be examined to
13 be prepped to surgery right away, and he was -- he looked
14 awful. He was white, scared. He did not look good. He had
15 ten-inch hole in his leg, and he was very confused.

16 Q. Were you able to go to him?

17 A. Yes. Well, we are forbidden to hold each other or hug each
18 other before I do go to that bath that I was saying, but I
19 definitely -- my father was right there, he left the office
20 when he heard, and he had realized what was going on, and he
21 said you should go give him a hug, he might not make it.

22 Q. And did you?

23 A. I did, yes.

24 Q. What happened that night at the hospital?

25 A. He was waiting to go into surgery. It took them about an

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H. Waldman - direct

1 hour and a half and he went into surgery. I waited there for
2 about another half an hour, 40 minutes, to make sure that
3 everything is going well, and then I went out for about a half
4 an hour.

5 Q. What did you do?

6 A. I went to the Mikvah at a different location near the
7 hospital.

8 Q. What was that like for you?

9 A. It was a nightmare. I felt like I had to do it. It felt
10 good to do it, but it was hard, and it's hard every month.

11 Q. What happened when you went back to the hospital?

12 A. I was waiting there until his surgery was done.

13 Q. What did you learn when he came out of surgery?

14 A. Well, he looked more relaxed. I guess he was drugged up
15 and just in a lot of pain.

16 Q. Can you describe what he was like during the next several
17 days?

18 A. He was anxious and irritated, and he did not like the fact
19 that he's in the bed and cannot move, not even to the bathroom
20 or anything. It was pretty awful.

21 Q. What did you have to do to care for him during that first
22 week at the hospital?

23 A. That year was -- I'm assuming was a hard year for the
24 hospital staff, so I pretty much felt like nurses became
25 doctors and spouse or any family members became a nurse. I

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H. Waldman - direct

1 felt like I was trained within a few seconds to be a nurse, and
2 give him whatever they can give him because they were so
3 understaffed.

4 Q. What did you have to do to take care of him?

5 A. That meant getting his needles, getting his medicines, if
6 he needed more, changing his linens, changing him, washing him
7 up.

8 Q. What was that like for you?

9 A. It was -- did not want to do to my husband. It was -- I
10 felt like he was so degraded, humiliated. It was just
11 something I had to do.

12 Q. How many months had you been married at that point?

13 A. Five and a half months.

14 Q. How long was he in the hospital before he returned home?

15 A. Twelve days.

16 Q. And what was it like when you took him home?

17 A. Taking him home was a day by day what he needed. He was
18 off his drugs right when he came out of the hospital, pain
19 drugs. It was disastrous because I did not even know that he
20 needs to gradually take them off, he just came off of the
21 machine. And there was a machine that he would press when he
22 needed the drugs, and it was -- just to understand, there were
23 probably eight machines in the whole country, he got one of
24 them, and he's able to press the button whenever he's in pain,
25 and he did. We came home to just Advil, Tylenol. It was very

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H. Waldman - direct

1 difficult. He was anxious, pain.

2 Q. What did you have to do to care for him at home?

3 A. He came with a wheelchair, the Advil that I tried, and it
4 was pretty much bathing him, also changing him, taking care of
5 him, and wheeling him outside to take a break.

6 Q. Was he able to sleep during that period?

7 A. No, he did not sleep.

8 Q. Were you working during this period?

9 A. I was, yes.

10 Q. What was it like trying to work and provide all this care
11 for your husband?

12 A. It wasn't so much room to think what I emotionally was
13 going through, but I definitely knew that I needed to keep that
14 job. And if I'm at work, no one will talk to me about my
15 emotional struggles. I got to do my job from 9 o'clock to
16 5 o'clock, and after that is my night nurse shift for caring
17 for my husband, and of course follow ups in the middle of the
18 day. But he would dose in and out. So it would pretty much --
19 I hired for him a friend to come be with him during the day,
20 and during the night he would -- either I would help him if I
21 wasn't falling asleep and he would talk to his father.

22 Q. You mentioned your emotional struggles. Can you describe
23 those?

24 A. Well, it was very difficult to see my husband and just
25 juggle everything the way it should be and hide all emotions of

F23TSOK3

H. Waldman - direct

1 the pain it was to see him that way every step of the way. And
2 eventually we had kids, and all that was a struggle of my own
3 that I had for years, just had to get through the day and do
4 what's right and not share it with him was --

5 Q. After you got home did your husband require further medical
6 care?

7 A. Yes.

8 Q. Can you describe that?

9 A. He had a few surgeries to try to repair his foot, and
10 follow-ups by local doctors, pediatricists and physical therapy
11 many times at different periods.

12 Q. How long was he unable to walk?

13 A. I would say about -- the first round of surgeries was about
14 a year someone would help him.

15 Q. At some point did you move to the United States?

16 A. Yes.

17 Q. When was that?

18 A. It was I believe the summer of 2004.

19 Q. Why did you move to the United States?

20 A. It was very hard. We could not manage there, and
21 emotionally and financially I couldn't swing more than I was
22 able to, and my husband could not work there.

23 Q. Why was that?

24 A. His disabilities could not get him a proper job over there,
25 and our bills were piling up.

F23TSOK3

H. Waldman - direct

1 Q. When you moved back to the United States, where did you
2 move to?

3 A. To Lakewood, New Jersey.

4 Q. Did you open a business at that time?

5 A. No.

6 Q. Did you ever open a business?

7 A. Yes.

8 Q. When did you open that business?

9 A. It was about a half a year after we came to the United
10 States.

11 Q. What type of business was it?

12 A. It was shades, blinds for windows, all kinds of treatment,
13 window treatments.

14 Q. Did you work in that business with your husband?

15 A. In the beginning, no. Eventually I helped him.

16 Q. Was that business successful?

17 A. It was very -- potentially should have been successful, but
18 we ended up closing it.

19 Q. What happened?

20 A. It was -- it did not work out.

21 Q. Why didn't it work out?

22 A. Basically my husband loves the drill and he loves people,
23 so customer service was what we thought would be great. He
24 gave it and he tried his all, but it just slowed down and he
25 wasn't able to give the customer service that he should have.

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H. Waldman - direct

1 Customers were being frustrated and the bills were piling, and
2 he couldn't even some days get out of bed to go to work, so --

3 Q. Why couldn't he get out of bed to go to work?

4 A. Sometimes he was physically in pain and sometimes he was
5 emotionally in pain and could not go out to work that day. And
6 I tried to help him. I went myself to customers and I hung
7 shades and I repaired shades and I tried to help with the
8 customers, but it had to be closed.

9 Q. At some point did your husband have additional surgeries in
10 the United States?

11 A. Yes.

12 Q. Can you describe those?

13 A. I believe it was started in 2009, he developed an ulcer and
14 on the bottom of his legs, and we tried curing it in many
15 different ways. It kept on coming back, just like diabetes
16 type of thing, but I know my husband doesn't suffer from
17 diabetes. And he eventually -- after nine months we went to
18 specialists, a few specialists in Manhattan, and they had
19 referred us to a head doctor surgeon in Washington, Georgetown,
20 Washington DC, where we started our treatment there.

21 Q. Did your husband have surgery in Washington DC?

22 A. Yes, three.

23 Q. How long was he gone for?

24 A. Well, it was -- every surgery was about a day. Sometimes
25 he was in so much pain we couldn't drive the way back. It

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H. Waldman - direct

1 would take us about four and a half hours each way without
2 stopping, and it was hard.

3 Q. How is Shmuel different since the attack?

4 A. He cannot be the father he wants to be, neither a husband.

5 Q. At some point did your husband require treatment in a
6 hospital for his mental health issues?

7 A. Yes, he did.

8 Q. Can you describe that?

9 A. Yes. We were having some marriage problems due to his
10 emotional state, and it was actually after the three surgeries,
11 he just -- first it was physically and then it was emotionally,
12 really, really became stressful in the house, to the extent
13 that he would have to go to his sister to sleep over some
14 nights, and he admitted himself to the hospital.

15 Q. Can you summarize Shmuel's injuries for me?

16 A. Yes, my husband got shot twice in his leg, his right lower
17 leg, he suffers nightmares. He had many surgeries, multiple
18 surgeries. He has pain, numbness, stiffening in his leg and
19 lower back. He had shrapnel, still has, it was never removed,
20 so he suffers from his back pain also. He has nightmares and
21 flashbacks and avoidance. He's very sensitive to loud noises
22 and avoids crowds. He always is looking over his shoulders who
23 is behind him, on the side of him. He gets angry. He has
24 depression that's in him sometimes. He became an introvert, so
25 that's about it.

F23TSOK3

H. Waldman - direct

1 Q. Does that summary on the screen accurately summarize the
2 testimony you just gave about the extent of your husband's
3 injuries?

4 A. Yes.

5 Q. I would like to ask you a little bit about how this
6 impacted the rest of your family, you and your family. Your
7 father-in-law, I understand you observed the impact this has
8 had on him?

9 A. Right.

10 Q. Can you summarize what you understand his injuries to be
11 for me?

12 A. My father-in-law has nightmares. He definitely increased
13 his anxiety, and he has increased vigilance. That should be
14 it, I think.

15 Q. I'm going ask you again to look at the screen and tell me
16 if that's an accurate summary of what you just described.

17 A. Yes.

18 Q. Now I was wondering if you could summarize the impact of
19 the shooting on you.

20 A. I suffer from flashbacks and nightmares, loneliness and
21 anxiety, avoidance and instability in the home.

22 Q. And I'm going to also ask you to look at the screen and ask
23 you if this is an accurate summary of testimony you just gave.

24 A. Yes, that should be accurate.

25 MS. PILDIS: We would like to offer the summaries into

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H. Waldman - direct

1 evidence as Exhibit 1268.

2 MR. ROCHON: No objection.

3 THE COURT: It will be admitted into evidence.

4 (Plaintiff's Exhibit 1268 received in evidence)

5 Q. How is your life different since the attack?

6 A. My life is different. Emotionally I cannot share the way I
7 would like to share with my husband everything that happens.

8 Q. Why is that?

9 A. I imagine how much pain I'm going through, I cannot do this
10 for him.

11 Q. How is your relationship with your husband different these
12 days?

13 A. I definitely try to give him a lot of compliments, probably
14 triple the amount of each lady. I try very, very hard to put
15 effort into how I look when he comes home or around me, and the
16 words of encouraging him and every day putting the meals
17 together should be good for him. He should feel good next to
18 me.

19 Q. Are there things in everyday life that you think you need
20 to avoid since the attack?

21 A. I do have to avoid -- yes, I do have to avoid many, many
22 things, try to figure it out on my own and with our kids.

23 Q. Are you able to follow current events in the news?

24 A. I don't do that, no.

25 Q. Why not?

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H. Waldman - direct

1 A. Because it is very painful. I don't listen to the news and
2 I don't watch the news.

3 Q. Are you in the process of planning a special event for your
4 family?

5 A. Yes, we are.

6 Q. What is that?

7 A. My son just turned 12, when he will be 13 we will celebrate
8 his bar mitzvah.

9 Q. Are you able to plan a party for that celebration?

10 A. As of now, I have been putting it on paper, I'm trying to
11 make my own phone calls, but I pretty much stopped.

12 Q. Why is that?

13 A. I have something in mind for what I think would be best for
14 our son, but when I brought it up with my husband twice, he did
15 not cooperate so well.

16 Q. What happened when you and your husband try to go to family
17 gatherings?

18 A. When it happens -- he doesn't go to every family
19 gathering -- it is extremely difficult for him.

20 Q. Why is that?

21 A. Because he doesn't do well with crowds, and even with
22 family get togethers, many times I have to go myself or say to
23 myself it's best if I stay with him and let the family think
24 what they think. He and I -- it is very emotional for us to go
25 to parties and events, any events, weddings, small or big, it

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H. Waldman - direct

1 becomes a stressful situation from the day we're invited.

2 Q. Why is that?

3 A. I believe my husband is avoiding the crowd situation,
4 affects him a lot in his ability to celebrate with family
5 events, even with our own children, our own parties. So it's a
6 very painful topic for us.

7 Q. Is the fact that your husband was injured in a terrorist
8 attack different for you than if it was a different type of
9 injury?

10 A. It is. If my husband would go out that day and would have,
11 God forbid, been in an accident, I would say accidents happen.
12 But the person that shot my husband, that was not an accident.
13 He was the first two bullets, and he was aiming for his heart.
14 My husband is a tall man. He took a step to get on the bus and
15 both bullets hit his leg, but the people after him who fell on
16 the floor, that was no mistake, that was planned, I must say,
17 very, very well.

18 Q. Henna, do you still follow the ritual of going to the
19 Mikvah every month?

20 A. I do when I have to, yes, I do.

21 Q. What's that like for you?

22 A. It is something I have to do, something spiritual that I
23 have to do, and it's not something so pleasant. Every month I
24 think about the time that I went that night, and those thoughts
25 and feelings haunt me every single time. I have to stop and

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H. Waldman - direct

1 catch my tears every time I go.

2 MS. PILDIS: I have no fourth questions.

3 THE COURT: Any cross-examination?

4 MR. ROCHON: No, sir.

5 THE COURT: Thank you, ma'am, you can step down.

6 THE WITNESS: Thank you.

7 THE COURT: Did you want to take it the lunch break or
8 start with the next witness?

9 MR. YALOWITZ: I think if we could take a break, your
10 Honor.

11 THE COURT: Ladies and gentlemen, let's do that.
12 Let's take the lunch break, and I will ask you to be back
13 inside the jury room at 1:45.

14 I think we have a couple of witnesses that will
15 probably take us about an hour or so, and then I will send you
16 home for the day. Don't discuss the case, keep an mind, and I
17 will see you at 1:45.

18 (Jury not present)

19 THE COURT: Let's take a lunch break.

20 (Continued on next page)

21

22

23

24

25

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AFTERNOON SESSION

1:45 p.m.

(Jury not present)

THE COURT: We are ready to continue. All the jurors are here.

What I am going to do, I went through all of the deposition designations. I read them all in the transcripts. What I have done, I am just going to give you what are literally my handwritten notes on the chart that was given to me as to what is in and what is out.

MR. YALOWITZ: Would your Honor memo endorse that for us? How did you want to handle it?

THE COURT: My court reporter has it written right there next to me. That's going to be my ruling. Unless you think there is something I skipped or missed, or there is something else you specifically want to argue, I think my views, most of them, are fairly obvious and already have been stated in other contexts.

So you can look it over over the next few days and those are the designations that I have determined are appropriate to be made by the defense.

MR. ROCHON: Thank you.

Let's get the jury and we will continue.

(Continued on next page)

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1 (Jury present)

2 THE COURT: You can continue, Mr. Yalowitz.

3 MR. YALOWITZ: Thank you very much, your Honor.

4 Plaintiffs' next witness is Morris Waldman. My
5 colleague, Ms. Pildis, will be conducting the direct
6 examination.

7 MORRIS WALDMAN,

8 called as a witness by the plaintiffs,

9 having so affirmed to tell the truth,

10 testified as follows:

11 DIRECT EXAMINATION

12 BY MS. PILDIS:

13 Q. Good afternoon, Morris.

14 Where are you from?

15 A. Brooklyn, New York.

16 Q. Are you a U.S. citizen?

17 A. I can't hear you.

18 THE COURT: Ms. Pildis, would you pull your microphone
19 down toward your mouth.

20 Q. Are you a U.S. citizen?

21 A. Yes.

22 Q. Are you married?

23 A. Yes.

24 Q. How long have you been married?

25 A. About 38 years, 37 years. I lost count.

F238SOK4

M. Waldman - direct

1 Q. How many children do you have?

2 A. Six.

3 Q. What are their names?

4 A. Honey, Shmuel, Shaindy, Philip, Abraham, and Dassie.

5 Q. Did you raise your children in Brooklyn?

6 A. Yes.

7 Q. Can you tell us a little bit about what your son Shmuel is
8 like?

9 A. He was like every other child. He had a very good head,
10 smart, lively, life of the party, as they say.

11 Q. What type of business are you in?

12 A. Window treatment.

13 Q. Do you own your own business?

14 A. Yes.

15 Q. Did your children help you in the business when they were
16 growing up?

17 A. Yes. When I was younger I used to do installations myself
18 also and I brought my son Shmuel to help me sometimes on jobs,
19 especially when they were upstate.

20 Q. Was he helpful?

21 A. Installation.

22 Q. Sorry. I asked, was he helpful to you?

23 A. Definitely. He has got golden hands.

24 Q. What did Shmuel do after high school?

25 A. He went to Israel, went to rabbinical school. It's called

F238SOK4

M. Waldman - direct

1 Mir Yerushalayim, in Israel.

2 Q. Was he happy there?

3 A. Yes.

4 Q. Did you speak to him regularly when he was studying there?

5 A. Yes.

6 Q. Did he get engaged soon after he moved there?

7 A. Like three or four years later, yes, four years later he
8 got engaged there.

9 Q. Did you travel to Israel for the engagement party?

10 A. Yes, I did.

11 Q. Can you tell us about that?

12 A. Yes. My brother who lives in Israel introduced my
13 daughter-in-law Henna to Shmuel, and it was kind -- I was
14 nervous. I am not there. And he wanted to go ahead with it.
15 I was nervously anticipating what will I get when I meet her.
16 I can say that I am sure he had seen her before. I was very
17 impressed with her.

18 Q. Was there a party?

19 A. Yes, there was a party there.

20 Q. What was it like?

21 A. It was friends, family, getting together and celebrating
22 the engagement.

23 Q. Was Shmuel happy?

24 A. Very.

25 Q. Did you return for the wedding?

F238SOK4

M. Waldman - direct

1 A. Yes.

2 Q. Do you remember when the wedding was?

3 A. Yes. It was in, I forget the name of the hall but it was
4 like outside of Jerusalem. The outdoors was gorgeous.

5 Q. Do you remember the date of the wedding?

6 A. I believe it was August 9 or 7, around there.

7 Q. Does anything about that date stand out to you aside from
8 the fact that it was your son's wedding?

9 A. That date? The day before stands out a little bit. There
10 was a terrorist attack on an eating restaurant. I forgot the
11 name of it. It was in the same area that he was hurt. And my
12 wife had just eaten at the same time, the day before, I think
13 it was about 2:00 if I remember correctly -- it's going back
14 years ago -- and I was walking, I happen to be walking there
15 and it was terrifying to think what could have happened if this
16 was just going to happen 24 hours earlier.

17 Q. Was Shmuel happy at the wedding?

18 A. Yes, very much.

19 Q. And Henna?

20 A. Very much so.

21 Q. Was the restaurant you were referring to, was that the
22 Sbarro pizzeria restaurant?

23 A. Yes.

24 Q. At the time that Shmuel was married, was he studying at a
25 Yeshiva?

F238SOK4

M. Waldman - direct

1 A. Yes. But right after he got married he went to work.

2 Q. What was he studying at the Yeshiva?

3 A. He was studying Talmud.

4 Q. What was the name of the Yeshiva?

5 A. Mirrer of Jerusalem.

6 Q. Can you tell us a little bit about the Yeshiva and the
7 program he was in?

8 A. It was a program whereby you learned together with a
9 partner the Talmud and you strive to get more knowledge as
10 possible. This kind of sets you up for lifetime. How to
11 conduct yourself in life, you know, you and your friends, your
12 wife. Everything. It is all-inclusive.

13 Q. Is it considered a good school?

14 A. Yes.

15 Q. Were you proud that he was studying there?

16 A. Yes. He did very well.

17 Q. I would like to go to January 22, 2002. Can you tell us
18 about that day? What were you doing when you found out that
19 your son had been shot?

20 A. First, that morning I woke up and my nextdoor neighbor
21 passed away, but my father, may he bless the memory, he had to
22 go for surgery. He had a heart condition, and my brother had
23 to be in Manhattan that day. So I was not able to take him.
24 So my wife went to the funeral and I took my father. While I
25 was driving, as I was passing the funeral home on the way to

F238SOK4

M. Waldman - direct

1 the hospital, I got a call from my daughter in Israel and says,
2 my son was shot.

3 I didn't react because I had my father next to me and
4 I told my daughter, do me a favor, find out what you can and
5 get back to me. But I also needed to tell my wife. So every
6 time I need to do something I have to stop the car, go out and
7 do the phone call and come back in. But I told my father that
8 I had a funeral to go to, just wanted to go and pay my
9 respects. Meanwhile, I ran into the ladies section. I wanted
10 to call my wife there. It was kind of odd because what is a
11 man doing in ladies section and running around each bench
12 looking. I missed my wife. I couldn't find her.

13 So I went back out and went further to take my father
14 to the hospital. I get another phone call and another phone
15 call. Each time I stop, I told my father it's my daughter and
16 I run out.

17 One of the phone calls, I got a call from my brother,
18 how's my son doing? I said, can you do me a favor. Call
19 Jerusalem, call my daughter at that time, find out for me if he
20 is alive or not. He got back to me. He assured me that he was
21 alive but he's hurt.

22 I got another phone call from my daughter and I run
23 out again. This time my father is getting upset at me. He
24 said, since when are you so good to your daughter that you have
25 to speak every five minutes. Can you just concentrate on me

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M. Waldman - direct

1 now and take me to the hospital. It was very tough. The
2 doctor said they give him a 65 percent chance of surviving, and
3 he had a heart condition too. So I didn't know what to do.
4 Tell him, not tell him. If I tell him, I can give him a heart
5 attack. And if I don't, he is angry at me.

6 Then I knew I had to go to my son in Israel. That is
7 my first duty. But I am afraid what if he doesn't make it. It
8 was very tormenting. Do I miss my father's funeral or do I
9 miss my son's, how you call it, in helping my son there.

10 So I just continued, went to the hospital. I had to
11 also run around. He was very frustrated with me. I stayed
12 there till 12' clock and told my brother to relieve me.

13 Q. What did you do at that point?

14 A. At that point I got ahold of my wife. My kids got ahold of
15 her and told her. And I got ahold of somebody who arranges
16 things to arrange a flight to Israel that same day to meet my
17 wife.

18 Q. When you went to Israel, what did you do?

19 A. I went straight to the hospital and I saw my son there. He
20 was wrenching in pain and he was put on a lot of morphine, I
21 think it's called. Even with that he was wrenching in pain.
22 He couldn't take it. He was kind of confused. There is
23 something that I just heard today at lunch when I was speaking
24 to my daughter-in-law. That morning before she went to work,
25 she made supper for him, that day he was shot. She made him

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M. Waldman - direct

1 meat and made him potatoes shaped in a heart and prepared it
2 for him when he will come home because he came home earlier
3 than she does. He finished work earlier. The next time they
4 saw that meal is when they came home two weeks later and it was
5 moldy. And I would say that scenario changed the life for all
6 of us involved in the same way. It was beautiful till then and
7 things went south from then.

8 Q. How long were you in Israel?

9 A. Two weeks.

10 Q. Can you describe what it was like while you were there?

11 A. It was very hard, gut wrenching. It's a parent's worst
12 nightmare what I had to go through then. He was terribly in
13 pain. The morphine helped. But one day there was another
14 terror attack and the morphine wore off, and the call that came
15 at the hospital, there were victims coming in from the attack.
16 The whole floor emptied out, no doctors, no nurses. There was
17 no one to talk to and everything was a hurried frenzy over
18 there. And here I had my son wrenching in pain, screaming.
19 And here it's happening again, another terror event, only a few
20 days apart, and it was very hard. It took like quite a few
21 hours till I was able to get his morphine back so he could be
22 able to bear it.

23 Q. What was it like for you watching your son in pain like
24 that?

25 A. Gut-wrenching, hard, difficult. Emotionally it was very

F238SOK4

M. Waldman - direct

1 hard. They started off as a newlywed couple six months
2 earlier, and I must commend my daughter-in-law. She took it
3 like a lady. She was also mortified, but I don't know how I
4 can manage without her.

5 Q. What did she do?

6 A. She was there for him 24/7. Whatever needs, she was there.
7 She was comforting us and helping her husband at the same time.
8 I thought it was very strong.

9 Q. What was Shmuel like after you returned to New York?

10 A. Try again.

11 Q. After you returned to New York, did you speak to your son?

12 A. After returned to New York from, moved back?

13 Q. After you went back.

14 A. After I went back. Well, it was very difficult times. He
15 used to call me up. I run a business and he used to call me up
16 and cry on the phone literally for hours from depression and
17 anxiety, and he was bored to death. He was sitting in a
18 wheelchair doing nothing all day. He made money from the
19 wedding and I also gave him money. Out of boredom he went and
20 invested in stocks and lost it all. It was going on for six
21 months straight. I don't know how many months. I said, Why
22 don't you come to the United States and I will try to help you
23 from here? That's what it was.

24 Q. What was it like for you as a parent talking to your son on
25 the phone and having these difficult conversations?

F238SOK4

M. Waldman - direct

1 A. It was hard because I myself had a hard time holding up,
2 but I had to be there for him, to cheer him up while I wasn't
3 really cheered up. You know, you think you have married off
4 your kid, you have done your job, everything goes well, and
5 then comes this disaster and it turns your life around.

6 Q. Can you describe how you helped support Shmuel and Henna
7 when they did return to the United States?

8 A. Yes. I was in the window treatment business. He was great
9 when he helped me out in my business and I figured he would be
10 a great candidate. He has got the height. He has got golden
11 hands. And he has got great sense of humor. I thought it
12 would be great if he get into the same business as I was.

13 So I went to my suppliers and I offered to guarantee
14 whatever he buys so he can get credit. He doesn't pay, I pay.
15 And that's how I started him off in the business.

16 Q. How did the business go?

17 A. In beginning I helped out a lot, but he had a hard time
18 dealing with things because things would set in, you know, his
19 depression would kick in, and then he wouldn't take care of
20 customers. I ran to take care of the customers so that his
21 business could take off. Somehow it wasn't the same Shmuel
22 that I knew before he went to Israel.

23 Q. How was he different?

24 A. He couldn't complete -- you know, his moods took him over.
25 If he was down, he wouldn't take care of a customer. If he was

F238SOK4

M. Waldman - direct

1 down, he would forget to order things and customers would come
2 screaming, it's several weeks, did you order, etc., etc. Being
3 that the name of the business is the same as mine I would get
4 the calls and I would try to take care and I had to be one
5 person in two places and it was quite tough.

6 At the end of the game I saw how things were going and
7 I didn't think -- I didn't think he will manage. He wasn't
8 managing because he couldn't get his act together. So I bought
9 him a house. Actually, I bought a house and I let him live
10 rent free in there.

11 Q. At some point did your son require inpatient mental health
12 treatment?

13 A. Yes. It was a couple of years ago that he had a breakdown
14 of sort and I had him put into an institution.

15 Q. What is your understanding of how he came to be in that
16 institution?

17 A. My understanding is that his anxiety, his depression, his
18 fear of being in public all came together and he went wacky,
19 how you call it, and he started taking it out on his wife. He
20 wanted to leave his wife. One night he would stay by my
21 daughter. One night he called me up and he wants to come and
22 stay by me and leave his wife. Thank God for his wife. She
23 wanted him back, and I told my kids not to take him in.
24 Finally my daughter called somebody to talk to my son that he
25 really needs help and he needs to get his life together again.

F238SOK4

M. Waldman - direct

1 So he went for help.

2 Q. Did Shmuel suffer from anxiety and depression that you have
3 described before the attack?

4 A. No. He was the life of the party.

5 Q. How is Shmuel at parties now?

6 A. At parties now? Well, put it this way. I married off --
7 he is my second child. I married off the rest of my children
8 and some he would show up in the beginning and run away because
9 he is afraid of the crowd. Some he would show up 10, 15
10 minutes and run away. In fact, the pictures have very few
11 pictures of wedding with him in it.

12 Q. You have testified that you bought your son a home and you
13 bought him a business. Did you have other expenses relating to
14 his care since he returned home?

15 A. Yes. From time to time, just to keep him afloat, I would
16 give him large sums of money so that his marriage stays intact,
17 his family is functional and continues.

18 Q. Who paid for his stay at the psychiatric hospital?

19 A. I did.

20 Q. Do you have a sense of how much money you have spent caring
21 for your son since the attack?

22 A. How much money? I would say 100, 150,000, besides rent
23 free, which I don't even count that. That you're talking about
24 3,000 -- no, I would say about \$30,000 a year. Multiply that
25 by ten.

F238SOK4

M. Waldman - direct

1 Q. Before the attack, did you ever think that you would have
2 to provide Shmuel with this type of support?

3 A. No. For six months of his marriage everything was fine.
4 He was happily in his job, happily married. Everything was
5 fine.

6 Q. Do you have nightmares about the attack?

7 A. Yes, I do. I scream at night.

8 Q. How else has the attack impacted your life?

9 A. Well, when something is brewing I always look over my
10 shoulders. I am scared. Maybe it's a terrorist attack.

11 Q. Do you think that it's different for you because it was a
12 terrorist attack?

13 A. Yeah. For example, I once -- in my job I went -- customer
14 sent me up to measure a window. She forgot to tell me there is
15 no floor. And I walked -- it was a plastic covering. I walked
16 through and fell down a floor and was hospitalized, but I still
17 go to measure because that was an accident. Terrorism is a
18 different thing. The fear never goes away.

19 Q. Do you suffer from fear today?

20 A. I'm sorry?

21 Q. Do you suffer from fear today?

22 A. Sure do. Any time my kids go to Israel, or even I go to
23 Israel, I always have to make sure they are in constant contact
24 with me so I know everything is fine.

25 Q. How has your relationship with your son been impacted by

F238SOK4

M. Waldman - direct

1 the attack?

2 A. Well, when he was -- right away it was fine because he
3 needed help. But then his mental state always get worse and
4 worse until he started blaming things on me, and we just didn't
5 get along for a year, year and a half.

6 Q. Is it better today?

7 A. Yes.

8 MS. PILDIS: I have no further questions.

9 THE WITNESS: Thank you very much.

10 THE COURT: Any questions?

11 MR. ROCHON: No.

12 THE COURT: Thank you, sir. You may step down.

13 (Witness excused)

14 THE COURT: Mr. Yalowitz.

15 MR. YALOWITZ: Our next witness, your Honor, is Shmuel
16 Waldman.

17 I will be conducting the direct examination.

18 SHMUEL WALDMAN,

19 called as a witness by the plaintiffs,

20 having so affirmed to tell the truth,

21 testified as follows:

22 DIRECT EXAMINATION

23 BY MR. YALOWITZ:

24 Q. Shmuel, just make sure you're close enough to the
25 microphone so you can be heard.

F238SOK4

S. Waldman - direct

1 Where did you grow up?

2 A. Can you speak up a little bit.

3 Q. Sure.

4 Where were you born?

5 A. I was born in Brooklyn, New York.

6 Q. Are you a U.S. citizen?

7 A. Yes, I am.

8 Q. Where did you grow up?

9 A. Up until I was 18 I lived in New York. Then when I was 18
10 years old I went over to Israel.

11 Q. Would you describe yourself as a kid growing up in
12 Brooklyn?

13 A. I went through the regular Jewish educational system in
14 Brooklyn, New York. I went to elementary school and then I
15 continued going for one year in school in Brooklyn. Then I
16 went to out of town. It's called out of town because in
17 Brooklyn you think the world ends at the Hudson River, but it
18 was in Westchester. I went to Peekskill, New York. I went to
19 high school. I was there for four years.

20 Q. How did you do in school?

21 A. I did great. I was always considered a smart kid, did good
22 in my grades for the things that interested me. Let's put it
23 that way. For the things that didn't interest me, lack of
24 interest, just showed a little bit in the grades, but I was
25 considered a good student.

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S. Waldman - direct

1 Q. That Yeshiva that you went to in Israel, Mir, is that a
2 prestigious place?

3 A. Yes.

4 Q. It's hard to get into?

5 A. It's tough. Each year it's getting tougher and tougher,
6 but it's a hard curriculum and it's a full schedule and it's
7 quite tough to be with it.

8 Q. How old were you when you married Henna?

9 A. I was 21.

10 Q. Is that a pretty typical marriage age in your community?

11 A. Most of us get married in the area between 21 and 24.

12 Q. What year was it that you got married?

13 A. Summer of 2001.

14 Q. Did you take a job soon after you got married?

15 A. Originally I was studying in Yeshiva. In approximately
16 December of '01 I took a job in a chain store called Big Deal.

17 Q. What was your job in that chain store?

18 A. I was running the store and running the warehouse. I was
19 in charge of everything from purchasing, bringing in all the
20 stuff that they were going to sell, following the trend, what
21 is necessary, and making sure the store is running financially
22 correct.

23 Q. How many people were you supervising?

24 A. I had with me three.

25 Q. What was the size of the store in terms of sales and like

F238SOK4

S. Waldman - direct

1 that?

2 A. I would put the monthly sales at about 400,000 shekel a
3 month, which is approximately 100 grand.

4 Q. That was a store you were running when you were 21?

5 A. Yes.

6 Q. Now, what was it like in Israel at that time in terms of
7 security?

8 MR. ROCHON: Objection, your Honor.

9 THE COURT: I am going to sustain as to the form.

10 Q. What was it like in Israel at that time?

11 A. It was tough. You had to watch your back and you never
12 know if you're coming home for supper.

13 Q. Where were you living?

14 A. I was living in a suburb of Jerusalem. It's called Beit
15 Shemesh. It's about 30 minutes away.

16 Q. Were you and Henna living there together?

17 A. Yes.

18 Q. How did you get back and forth to work?

19 A. Both Henna and I, usually at 7 in the morning, took the bus
20 into Jerusalem. When we got to downtown Jerusalem we would
21 part our ways. I would go where I had to go and she went to
22 her job. Sometimes I did it by foot and sometimes I took a
23 small bus.

24 Q. Did you ride the bus home from work together most nights?

25 A. Whenever we could, yeah, if we both got released the same

F238SOK4

S. Waldman - direct

1 time.

2 Q. Tell us about those early days of your marriage. Were you
3 happy?

4 A. Henna and I, immediately it was love at first sight for
5 her. From the first day I dated her I loved her and wanted to
6 marry her, but we dated for approximately a month. We got
7 engaged afterwards and then three months later we got married.
8 We did all the silly and stupid stuff that every young couple
9 do and were in a state of euphoria, into each other. It was
10 cut short, the game.

11 Q. Just take us back to those early months. Did you worry
12 about her safety?

13 A. I was very worried and I used to be always in contact with
14 her just to make sure that everything is OK. You know, I just
15 wanted to make sure she is going to come home at night and not
16 be hurt by an attack.

17 Q. Did you think that you would be the one who might get hurt?

18 A. At that time every time you went out you knew you were
19 taking a chance, but you had to try to continue living as best
20 as you can.

21 Q. I want you to tell us a little bit about the plans that you
22 had the night of January 22. I think we heard a little bit
23 from Henna. But from your perspective, if you could explain to
24 the jury this concept of the mikvah night because I don't think
25 it's familiar to people who are not in your community.

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S. Waldman - direct

1 A. Basically the way it works in our religion, guys are guys
2 and we always try to get around having to deal with the real
3 issues and we need sometimes a reminder how to treat a woman
4 and to be nice to her and things come from emotional side and
5 to be there and listen to. So our religion dictates to us that
6 for the time that a lady is during her period that we don't
7 have physical contact with each other. It's a time that you
8 try to build your relationship on an emotional level and try to
9 let out all of the physical aspect that distracts most guys
10 during the process of creating and having a fulfilling
11 marriage.

12 So after the lady is finished with her period, the
13 best way that I can describe what it is is sort of a ritual
14 spa. They go -- it's a ritual bath. It's sort of to ignite
15 the spark once again. Sort of, if you can understand it, if a
16 husband goes away on a vacation for two weeks and he comes back
17 and there is always renewing again. So it's a very, very
18 special night for everyone that follows within this religious
19 path.

20 Tuesday night, January 22, she was going to go to
21 mikvah that night, but I didn't make it home.

22 Q. Can you tell us what happened to you that day?

23 A. The day started off as a regular day. We took the bus
24 together. I get my little baggy of lunch from her that she
25 would make for me. She went off to work. She was going to get

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S. Waldman - direct

1 released from work at 1:15. I was supposed to leave a little
2 bit later in the day, at 4:00, because I had to take care of
3 the store.

4 I decided I'm going to leave a little bit early to try
5 to surprise her and be home a little bit early. So I left at
6 20 to 5. I went to the bus stop. I was hoping to get home
7 that night. I didn't. I didn't make it.

8 I am trying to mind my own business going home. I was
9 standing there waiting there for the bus with hopes to be home.
10 This fellow came up from behind. He had a trench coat. It was
11 a rainy day. He took out his gun, took out his gun. He took
12 out his M-16 and he raised it up, and I was his target. I
13 jumped onto the bus. He gave a scream. He screamed out *Allahu*
14 *Akbar*.

15 When he did that, I knew what it meant. I knew what
16 it meant. The whole world was frozen. He started spraying the
17 bullets. He didn't care who was there. He just did it because
18 he had an agenda. I got hit twice, two bullets. It pierced
19 through my leg. It shattered my tibia. I dropped to the floor
20 right away. I didn't want to get cross-fire.

21 Then the shots started firing and a man was sitting
22 toward the front of the bus. He was a little bit slower in the
23 beginning and then dropped to the floor. He fell down with his
24 elbow into my back. I thought the terrorist came onto the bus
25 and started shooting me again. I closed my eyes. I told the

F238SOK4

S. Waldman - direct

1 guy next to me, go tell my wife to remarry and forget about me.
2 I thought I was dying. Everything went black and I was waiting
3 for the light at the end of the tunnel, but it didn't happen.
4 It didn't happen.

5 I didn't die that day, but my life changed.
6 Everything changed. Hospitals, therapies, surgeries, casts,
7 nurses, needles and shots and more shots and morphine and more
8 morphine and more morphine, pain. So much pain. Someone with
9 an agenda to destroy.

10 I was taken right away to the hospital. The bus
11 driver drove me to the hospital. They weren't equipped to deal
12 with what I had. I got transferred over to Shaare Zedek. I
13 had to make the phone call to my wife and tell her I'm not
14 coming home. I'm not coming home. I'm not coming home.

15 I was rushed into surgery. They had to stabilize me
16 because I lost half my blood. I had a gash right through my
17 leg. You were able to see through my leg through and through.
18 Surgeries and more surgeries and more and more and more.

19 They did two different parts in that first surgery.
20 They had to reconstruct my leg. My bone was shattered. They
21 had to also cover, at least temporarily, the hole that was
22 going through my foot.

23 During my hospital stay I started figuring out right
24 away, besides just on the physical level of what is going to be
25 ahead, I started having terrible, terrible nightmares in the

F238SOK4

S. Waldman - direct

1 hospital. The doctors had to put me to sleep using a
2 medication because I just lost it sometimes. Always scared.

3 It was a long, long, long hospital stay. I saw
4 myself -- I was 22 when it happened and I turned to the doctor
5 within the first few days and I said, Doctor, I'm so young.
6 Will I be able to walk again? And the doctor said, I don't
7 know what to tell you. But if you do ever get to walk again,
8 it's going to take a long time and a lot of work.

9 It took a lot of time, 18 months, till I was able to
10 start walking again. A lot of psychological therapy. You
11 start living a life where your brain and your body and soul
12 just tear you in different directions. You try to function as
13 a husband. You try to do the things that's right. But your
14 mind just shuts you down. You cannot control it. You try, but
15 your mind just takes you to places, to bad places, to horrible
16 places. You become so detached you start living alone in the
17 world, and when you live alone in the world suicide thoughts
18 start coming in. Because if you're alone it doesn't make a
19 difference if you're here alone or you're there alone. You
20 don't want to live. Because if you can't live life and be in
21 control about things, it's a horrible place.

22 I had to go from a stage where I was managing a store
23 to a place that I couldn't even clean myself. I would have to
24 lay in bed and have to have my wife change me. I am 22 years
25 old. Why does my wife have to change me when I need to go to

F238SOK4

S. Waldman - direct

1 the bathroom? Everything came to a standstill, everything. No
2 more work. Nothing. You're stuck in your house. You're
3 stuck. To do anything you need help. Take me here, please,
4 take me there. Please help me down the steps. Please help me
5 pick up my pants.

6 But you try and you try and you try to give it all you
7 have got. But when you're in this situation, giving it all you
8 got doesn't take you too far because you're limited. So the
9 process starts. You go for therapy. You go to physical
10 therapy and another therapy and another therapy.

11 You go to another surgery, another surgery. But your
12 life ended. You can't work. You can't go anywhere. You're
13 scared to go anywhere. You're scared to move. You start
14 having these visions of what happened to you that aren't a
15 fantasy. You start imagining that someone is chasing you and
16 you can't live a normal life when you're being chased. You end
17 up more depressed and you shelter in more and you shelter in
18 more.

19 (Continued on next page)
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F23TSOK5

S. Waldman - direct

1 A. But you have to continue, you have to try. So you try and
2 you try, but the mind still takes you over, the mind comes
3 back. It takes you to places that are dark, dark.

4 Q. Shmuel, would you like to take a break.

5 Would you like to take a break?

6 A. I'm fine.

7 Q. Do you want to continue?

8 A. I'm fine.

9 Q. I just want to ask you some questions about where you are
10 today in your life. Can you just talk a little bit about your
11 leg and the degree to which you're able to use it?

12 A. About three years ago I had to go back for three more
13 surgeries because I don't walk correctly, and it caused me to
14 develop a chronic ulcer. And it almost went to the bone, to
15 the extent that the doctors were contemplating whether they
16 will have to amputate it or not.

17 But I went down to Washington DC, I went down to
18 Washington DC because I actually started off in New York but
19 the doctors told me that -- the doctor pretty much told me in
20 is simple English it's beyond their scope of medicine to be
21 able do it, and they suggested I go to Georgetown Medical
22 Center.

23 Q. How many surgeries did you have in Georgetown?

24 A. Three.

25 Q. Did there come a time when you had a nail in your foot?

F23TSOK5

S. Waldman - direct

1 A. I was hospitalized twice because I stepped on a nail but I
2 didn't realize it because I don't have the feeling underneath,
3 and basically after three days my foot got so infected that it
4 wouldn't fit into my shoe anymore. That's when I realized what
5 happened, and I had to go to the hospital to treat it.

6 Q. Are there times when you have trouble walking or trouble
7 with falls?

8 A. Because I don't have sensation, most of the balance that a
9 person has is being able to sense what they're standing on. So
10 I have fallen many times. And I have not sustained any serious
11 injuries from the actual falling, but it causes also lower back
12 pain, which I got a lot to chiropractors help me out with my
13 back. I have cramping in my leg because of the irregular blood
14 flow to my foot that causes me a lot of cramps.

15 Q. I want to ask you about the kidney that you donated. Could
16 you just describe what that process was?

17 A. I was volunteering for an organization called Bigger Home,
18 and I would take people to the dialysis center to get the
19 dialysis over there. One time one of the patients asked if I
20 could stay along with him because his pillow falls a lot and
21 causes him pain because he can't reach it, so I spent the day
22 over there. I looked around, I saw many people, and I said to
23 myself I'm not going to be able to help every one over here,
24 but I'm going to help one person get out of this center. I
25 contacted a referral organization and they matched me up with a

F23TSOK5

S. Waldman - direct

1 lady in Brooklyn. I was a good match to her. And if I
2 remember correctly, it was May 25th, 2010 I gave it to her.

3 Q. What did you learn about that lady?

4 A. Before I didn't know anything really about her. I gave it
5 totally altruistically. It was more afterwards that I found
6 out, but I haven't kept up with the lady really because I don't
7 want the lady that I gave it to -- she's mentally challenged,
8 so she doesn't even know what I did for her. So she doesn't
9 have the capacity to be able to keep up, but she's living today
10 happily.

11 Q. I want to ask you about the window treatment business that
12 you started. Who helped you start that business?

13 A. My father gave me the go abouts initially to start it off,
14 and in January of 2005 I made an attempt to try to support my
15 family, respectfully, and I started this business and in
16 Lakewood, New Jersey.

17 Q. Were you able to make a go of it?

18 A. At the beginning it was going reasonably fine, but very,
19 very fast I realized that because of my emotional difficulties,
20 things weren't working good. If I was scheduled to go to
21 someone, then my mind would all the sudden shut down and I
22 would just not go. I will be scared for some reason and not
23 go.

24 Q. Did you have those kinds of emotional difficulties before
25 the terror attack?

F23TSOK5

S. Waldman - direct

1 A. No, definitely not, I was a very, very outgoing -- I was an
2 extrovert who was always a party boy, I guess you could call
3 it, but no parties recently.

4 Q. How has the terror attack affected your relationship with
5 your children?

6 A. Well, to put it the best way, my oldest kid, he came home,
7 his name is Ariel, twelve-year-old boy, lovely boy. He came
8 over to me and he said daddy, I want to come testify. And I
9 told him you can't, sweetie.

10 So I was curious, and I said I want to ask you, what
11 do you want to tell them? And he says I don't want to tell
12 them too much, I just want to know why is daddy shut down, why
13 doesn't daddy come play with me, bowl like a regular daddy?
14 Why doesn't daddy sit and do homework with me? Why do you go
15 upstairs to your room and shut down?

16 He wanted to come here in his little mind to get
17 answers for it. There are no answers. I shut down because my
18 brain just tells me to do that. I know I'm not there for my
19 kids the way I'm supposed to. I know that one day that when
20 they're all grown up I will have to have a sit down with them
21 and let them know. They're too young to understand, some of
22 them, they just know that daddy is not always there for them.
23 But hopefully they'll understand one day what I went through,
24 hopefully.

25 Q. Shmuel, I need to take you to November of 2012. Tell us

F23TSOK5

S. Waldman - direct

1 about that.

2 A. November 2012. It wasn't too long after my three surgeries
3 that I had in Washington DC, my business was collapsing, I was
4 for months and months in a wheelchair for my second round of
5 surgeries, physical therapy and everything. My business
6 collapsed, I wasn't supporting myself decently. I was having a
7 lot of emotional difficulties, caused a lot of marriage
8 problems because I just wasn't there as a husband and as a dad.

9 Q. Did there come a time when you checked yourself into Four
10 Winds?

11 A. November 2012.

12 Q. What is Four Winds?

13 A. Four Winds is a New York State mental health facility. I
14 lost it. I had a breakdown. Everything started -- everything
15 crashed. My business was gone. My marriage was almost out the
16 window. I had a breakdown. I shattered with my bare hands a
17 closet in my house.

18 Q. Did you write something that you wanted to read today?

19 A. I wrote a letter to myself.

20 Q. When did you write that letter?

21 A. Right after I checked in and I settled into my room, I took
22 out a pen and paper and I started writing. I let my mind and
23 my pen flow. I tried to put to words to the emotions, to the
24 difficulties that I had and everything that was going on. And
25 I would like to read it, I think, to give an understanding to

F23TSOK5

S. Waldman - direct

1 crawl into my mind a little bit.

2 Q. Go ahead, please.

3 MR. ROCHON: Your Honor, may we briefly approach?

4 THE COURT: Ladies and gentlemen, we'll take a short
5 break. Don't discuss the case, keep an open mind.

6 (Continued on next page)

F23TSOK5

S. Waldman - direct

1 (Jury not present)

2 (At side bar)

3 MR. ROCHON: I have never seen the letter. If it was
4 written a while ago and he wants to read it aloud, I would like
5 to see it before it's read.

6 THE COURT: Is there a reason he hasn't seen the
7 letter?

8 MR. YALOWITZ: I don't have a copy, but the witness
9 has a copy with him. I'm happy for Mr. Rochelle --

10 THE COURT: Is there some reason that you didn't give
11 it to him before?

12 MR. YALOWITZ: We just found out about it the other
13 day.

14 THE COURT: Is there some reason that you didn't show
15 him the other day?

16 MR. YALOWITZ: I didn't get a copy of it. I don't
17 have it.

18 THE COURT: Is there some reason you didn't get a copy
19 of it?

20 MR. YALOWITZ: I have been busy.

21 THE COURT: There are consequences to being busy. Get
22 that letter, show it to him, and we'll see if we can do this.

23 (Recess taken)

24 MR. YALOWITZ: Your Honor, one thing I want to be
25 clear about, I'm not offering that letter in evidence.

F23TSOK5

S. Waldman - direct

1 THE COURT: Then it's not being read to the jury.

2 MR. YALOWITZ: That's fine.

3 THE COURT: You don't read things to the jury that are
4 not in evidence.

5 MR. YALOWITZ: We can proceed on that basis.

6 MR. ROCHON: Thank you. Understood. I ask if the
7 Court could ask counsel to move the direct questioning.

8 THE COURT: How much more do you do you have?

9 MR. YALOWITZ: Less than five minutes.

10 MR. ROCHON: Thank you.

11 THE COURT: Then let's get the jury. Could we send
12 the jury home after this witness?

13 MR. YALOWITZ: Yes.

14 THE COURT: Then let's get the jury.

15 (Continued on next page)

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F23TSOK5

S. Waldman - direct

1 (Jury present)

2 BY MR. YALOWITZ:

3 Q. Shmuel, before we broke we were discussing that first day
4 or two at Four Winds. Could you describe for the jury the
5 thoughts that were going through your mind as you sat there
6 reflecting on where you had gotten to?

7 MR. ROCHON: Objection, your Honor.

8 THE COURT: Overruled, you can answer this.

9 A. I sat myself in the bedroom over there, and I said to
10 myself here I am, 33 years old, a husband, a father of five
11 kids, and never in a million years thought I would get to this
12 stage of my life where I become the property of a mental health
13 facility. I didn't know how I got there. How did I reach this
14 stage in life? What went wrong?

15 I looked around, the people around me just looked
16 strange, drug addicts, alcohol abusers. The place looked
17 strange to me. I tried to figure out just how did I end up
18 here. How did I sink this low. How did I lose it so bad
19 emotionally that I'm sitting in a bedroom in a mental health
20 facility.

21 I said to myself I always thought that the floor is
22 the lowest I'm going to fall to, but that night I realized that
23 there was a basement, and for me that basement was a Room
24 Number 2 in the Deer Wood Building of the Four Winds. And I
25 swear to name a hospital Four Winds, but it was a mental health

F23TSOK5

S. Waldman - direct

1 facility. I couldn't fathom living with the understanding that
2 I checked myself in. I'm a capable, good person. I felt like
3 the world ended, the world for me was going to split, there was
4 going to be the before the loony bin and after the loony bin.

5 I looked up and I said God, I know you love me, I know
6 you the world is beautiful, I know everything you do is good,
7 and I know you are watching me. I said God, I know that as I'm
8 crying here tonight, you're crying with me, but there's no two
9 ways to look at it. I said God, tonight I feel alone. I'm in
10 a lonely, strange place. I'm going to have to try to find a
11 way to convince myself that when I get out of this here I will
12 be okay with the fact that I checked myself in to a loony bin.
13 But at that point, it was just difficult to try to put together
14 everything.

15 I knew it was a good thing and a bad thing that I was
16 there. The bad thing was all the hardships, the pain, the
17 suffering, the emotional roller coaster, the burden that I
18 placed for the people around me. I put my wife through
19 something she did not deserve. I put my kids through something
20 they didn't deserve.

21 I knew in my mind that at the end of the day I am
22 responsible for what happens to me. But I in no way chose to
23 go through the terror attack. The terror attack is something
24 that can take out the best of us. I said to myself I hope that
25 one day Henna, Ariel, Yehuda, Shlomo, Shimshi and Devorah, I

F23TSOK5

S. Waldman - direct

1 said I hope they find it within their heart one day to forgive
2 me for what I put them through. I'm going to try to do my
3 best, but for now, I'm at the bottom.

4 The good thing about being at the bottom is there's
5 nothing lower than the basement. I turned and I said God, I'm
6 going to turn a new page over here, I'm going to try, I said
7 dear God, I ask you, please help me turn a new page. Please
8 give me it the courage to choose right from wrong. Please give
9 me the wisdom to ask for help when I need it. And I asked God,
10 I said please give me the clarity of mind to see your embrace
11 and to see your smile, and the process started.

12 Q. Shmuel, just sitting there with those thoughts, did your
13 mind turn specifically to the terror attack?

14 A. Absolutely. I mean just my life was a regular normal life
15 and everything started rolling. The business had difficulties
16 and it couldn't go, and emotionally I was withdrawn, and then
17 the surgeries that I had to follow up with, it just totally
18 took me out of my ability. I wasn't able to feed my family. I
19 was always running away. I was always hiding. And that
20 distance and the loneliness, it just destroyed everything for
21 me.

22 I always tell me wife I always thought that it's going
23 to somehow stable out one day emotionally, but there's no
24 running. It haunts, it haunts. And I have seen the bottom, it
25 just -- I was a regular normal kid, I don't belong in a mental

F23TSOK5

S. Waldman - direct

1 health facility. I belong having a good job, supporting my
2 family, but it was taken away from me. Emotionally I can't do
3 it. I want to. But when your mind starts shutting you down
4 because you're scared and you are always fantasizing there are
5 people chasing you with guns, you can't -- you can't function.

6 So I knew I was there. It was just a sequence of
7 events that added up. The emotional difficulties, the
8 difficulties that are placed on my family, the business
9 crashing, the surgeries, my lost hope of my business. You
10 can't run a business when you're seven months straight running
11 to Washington DC. I went there 22 times in seven months. It's
12 500 miles round trip. You can't run a business -- you can't
13 run a business from a wheelchair, you can't be there for your
14 family.

15 I'm convinced beyond any reasonable doubt that it
16 directly, not on the side or not indirectly, that's what put me
17 into Four Winds. It just the ultimate. All the cards came
18 crashing down. It's not something that happened 13 years ago,
19 it's something that you live with day to day, because every
20 single day when you wake up and you want to try and your brain
21 just shuts you down because you're scared, sometimes it can be
22 because something on the news, but many times it just comes up
23 from out of nowhere.

24 So for me, at that point I recognized that it's going
25 to be a life challenge for me. And I will be honest, I don't

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S. Waldman - direct

1 know if I will end up there again. Who knows? Because I
2 see -- I get challenged, it's an ongoing challenge. You hope
3 to try and stay calm and collected and be able to do it, but
4 sometimes it haunts you very strong. Sometimes it eases up a
5 bit. But it's after you, it's there. It's always something
6 crawling in your mind.

7 MR. YALOWITZ: Thank you, Shmuel.

8 Your Honor, I don't have any further questions.

9 THE COURT: Any questions for this witness?

10 MR. ROCHON: Thank you for asking, no.

11 THE COURT: Thank you, ladies and gentlemen. We're
12 going to adjourn for the day. Don't discuss the case, keep an
13 open mind. I'll ask you to come at 9:45 tomorrow. We hope to
14 have a number of witnesses tomorrow and keep us on schedule.
15 We'll pick up in the morning at 9:45.

16 (Adjourned to February 4, 2015 at 9:45 a.m.)
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PLAINTIFF EXHIBITS

Exhibit No.	Received
12672280
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